This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

33 07596348 2

REPORT

OF THE

TRIAL

OF

PROF. JOHN W. WEBSTER,

INDICTED FOR THE MURDER OF

DR. GEORGE PARKMAN

BEFORE THE SUPREME JUDICIAL COURT OF MASSACHUSETTS,

HOLDEN AT BOSTON,

ON TUESDAY, MARCH 19, 1850.

PHONOGRAPHIC REPORT, BY

DR. JAMES W. STONE.

BOSTON:
PHILLIPS, SAMPSON & COMPANY,
110 WASHINGTON STREET.
1850.

B.A.

Entered according to Act of Congress, in the year 1850, by
PHILLIPS, SAMPSON & COMPANY,
In the Clerk's Office of the District Court of the District of Massachusetts.

STEREOTYPED BY
HOBART & ROBBINS;
NEW ENGLAND TYPE AND STEREOTYPE FOUNDERY,
BOSTON.

NEW YORK
PUBLIC
LIBRARY

PREFACE.

THE great interest taken in the trial of Prof. Webster — a trial which, since its commencement, has absorbed the attention of the entire community — has induced the publishers to furnish an accurate edition, for preservation and future reference. They have spared no expense to secure the most thorough and correct report which it was possible to make. All, except the testimony, was phonographically reported by Dr. Stone, and we have reason to believe that it will meet the expectations of the public. Arrangements of the most complete character were also effected with other reporters, to obtain a faithful report of the evidence.

The charge of Chief Justice Shaw, and the argument of Mr. Clifford, have been carefully corrected by them; while we regret to say, that the haste with which the work has been stereotyped has prevented the arguments of Messrs. Merrick and Sohier from being revised, either by themselves, or by Dr. Stone. These latter arguments were written out, as soon as reported, by six or eight individuals, and were immediately stereotyped, before examination. In a future edition, any inaccuracies which may be observed will be corrected.

This edition contains, in an Appendix, the verdict of the Coroner's Jury, the deposition of Dr. Martin Gay, and other valuable and interesting papers, not contained in any other edition.

CONTENTS.

DAYS.	Page
Tuesday, March 19, A. M.	3
" " P. M.	26
Wednesday, " 20, A. M.	32
" " P. M.	39
Thursday, " 21, A. M.	46
" " P. M.	53
Friday, " 22, A. M.	60
" " P. M.	66
Saturday, " 23, A. M.	71
Monday, " 25, A. M.	81
" " P. M.	91
Tuesday, " 26, A. M.	96
" " P. M.	106
Wednesday, " 27, A. M.	112
" " P. M.	123
Thursday, " 28, A. M.	147
" " P. M.	156
Friday, " 29, A. M.	163
" " P. M.	189
Saturday, " 30, A. M.	221
" " P. M.	260
Monday, April 1, A. M.	303

GENERAL.

	Page
Advertisements of Dr. Parkman,	309
Anatomical Report,	56
Appendix,	308
Chemical Reports,	47
Clifford's Opening,	7
" Argument,	221
Coroner's Jury, Verdict,	309
Counsel, Names of,	3
Court, Judges present,	3
Gay, Dr. M's. Report,	310
Indictment,	4
Jaw of Dr. Parkman,	57
Jurors Challenged,	4
" Set aside,	4
Jury, Names of,	4
" in Webster Trial,	311
Law Points, not in Charge, 27, 32, 37, 65, 70, 79, 80, 81, 92, 103, 112, 115, 116, 117, 118, 141, 165, 167, 183, 203	
Letters, Anonymous,	121, 122
Medical Report,	40
Merrick's Argument,	167
Plan of Laboratory,	308
Sentence,	304
Shaw's Charge,	277
Skeleton, Parts discovered represented in black,	54
Sohier's Opening,	123
Verdict,	302
Webster's Letters,	97, 111
" Papers,	87
" Remarks,	275

WITNESSES.

	Page
Ainsworth,	46
Andrews,	110
Apthorp,	149
Blake, James H.,	94
" John H.,	145
" S. P.,	100
Bosworth,	122
Bowditch,	147
Bowen,	145
Brown,	107
Buckingham,	145
Buzzell,	81
Calhoun,	82
Cavanagh,	147
Chamberlin,	146
Chandler,	147
Clapp,	86, 91
Cleland,	160
Codman,	165
Coleman,	108
Crossley,	50
Cummings,	109
Dana,	94
Dean,	163
Eaton, C. O.,	148
" W. D.,	59
Edgerly,	105
Edwards,	147
Fay,	149

	Page
Fifield,	167
Finnegan,	152
Foster,	78
Francis,	146
Fuller, A.,	36
" E.,	36
" L.,	37
" S. B.,	167
" S. D.,	97
Fulton,	146
Gay,	44, 153
Giles,	146
Gould,	112
Green, J. D.,	146
" S. S.,	149
Greenough,	162
Harwood,	164
Hastings,	146
Hatch, J.,	157
" P. B.,	156
Hathaway,	81
Hedge,	147
Henchman,	94
Holland,	38
Holmes,	59, 153
Horsford,	154
Hovey,	147
Jackson, C. T.,	46, 48
" J. B. S.,	83
Keep,	50
Kidder,	150
Kimball,	105
Kingsley, E. C.,	112
" C. M.,	25
Lane,	104
Lewis,	40, 42, 153
Little,	91
Littlefield, C. N.,	78
" E.,	60, 66, 71
Lothrop,	107
Lovering,	146
Maxwell,	81
McGowan,	30
Mead,	105
Moore, C. G.,	34
" G. F.,	35
" M.,	35
Morton,	155
Noble,	53
Paige,	161
Palfrey,	145
Parker,	108
Parkman,	95
Pettee,	91
Pratt,	38, 39
Preston,	82
Prouty,	36
Rhoades, A. B.,	161
Rhoades, M.,	162
Rice,	104
Russell,	166
Sanderson,	163
Sanger,	146
Sawin,	85
Shaw,	30
Smith,	96
Sparks,	147
Starkweather,	101
Stone,	43, 156
Strong,	44
Thompson,	157
Todd,	166
Treadwell,	147, 156
Trenholm,	83
Tucker,	165
Tukey,	32, 112
Tyler,	105
Walker,	145
Waterman,	106
Webster, C. T.,	152
" H. T.,	151
" M.,	150
Wentworth,	159
Willard,	146
Wyman, J.,	54
Wyman, M.,	147

SUPREME JUDICIAL COURT.

TRIAL OF

DR. JOHN W. WEBSTER,

INDICTED FOR THE

MURDER OF DR. GEORGE PARKMAN.

HON. LEMUEL SHAW, *Chief Justice.*

HON. SAMUEL WILDE,
" CHARLES A. DEWEY,
" THERON METCALF,
} *Associate Justices.*

Counsel for the Commonwealth.

HON. JOHN H. CLIFFORD, Attorney General.
GEORGE BEMIS, Esq.

Counsel for the Prisoner.

HON. PLINY MERRICK,
EDWARD D. SOHIER, Esq.

Tuesday, March 19, 1850.

THE Court met at 9 o'clock, A. M.

The Clerk read the names of sixty jurors. All but four answered. Fourteen were excused from serving, on account of their health, or military commissions.

The counsel for the Commonwealth then stated that JOHN W. WEBSTER was present, to be tried for the murder of Dr. George Parkman, the Grand Jury having found an indictment against him, to which he had pleaded Not Guilty. He then moved that the Jury be empanelled to try the case.

The Clerk then called the name of John W. Webster, and the prisoner stood up. He was then informed by the Clerk, that he was put to the bar to be tried for the murder of Dr. George Parkman — that the Court would now proceed to empanel a jury — that he had by law a right peremptorily to challenge twenty jurors, and that if he had

objections to any others, he must show good and sufficient cause for their exclusion.

The Court then propounded to the Jury, to be answered by each severally, the questions required by the Revised Statutes, in regard to previously formed and expressed opinions, and in regard to capital punishments.

The following persons were peremptorily challenged by the prisoner: Simeon P. Adams, Hiram Bosworth, Benjamin Chandler, Jr., Wm. L. Eaton, James L. Fowler, George O. Frothingham, Cyrus P. Gould, Daniel Hall, Geo. W. Larnard, Walter C. Manning, Wm. Melvin, Samuel T. Morse, Moses Pike, and Greenleaf C. Sanborn.

The following persons were set aside by the Court, as having formed or expressed an opinion: Charles H. Appleton, Dudley H. Bailey, (prejudiced;) James Bliss, John Bowker, Jr., Geo. H. Chapman, Alonzo Jones, Jr., Jacob W. Pierce.

The following persons were set aside, as having such opinions against capital punishment as would forbid them to convict the prisoner: George Bemis, Daniel F. Child, and John B. Hewes.

Mr. Benjamin H. Greene stated to the Court that his opinions were distinctly opposed to capital punishment, but he did not think that fact would prevent him from telling the truth in this case. Question by the Court — You would oppose the law as a legislator, but would execute it as a juror? Answer — Yes. The Court ruled that his case did not come within the meaning of the statute.

The following were the names of the jury obtained to try the case: —

Robert J. Byram, (Locksmith,) Foreman.
Thomas Barrett, (Printer.)
John Borrowscale, (Slater.)
James Crosby, (Clerk.)
John E. Davenport, (Painter.)
Albert Day, (Dry Goods Dealer.)
Joseph Eustis, (Merchant.)
Daniel T. Fuller, of North Chelsea.
Benjamin H. Greene, (Bookseller.)
Arnold Hayward, (Carpenter.)
Frederick A. Henderson, (Furnisher.)
Stephen A. Stackpole, (Clerk.)

The Clerk read the indictment, as follows: —

Commonwealth of Massachusetts, Suffolk, to wit: At the Municipal Court of the City of Boston, begun and holden at said Boston, within and for the County of Suffolk, on the first Monday of January, in the year of our Lord 1850, the Jurors for the Commonwealth of Massachusetts on their oaths present, that John W. Webster, of Cambridge, in the County of Middlesex, gentleman, on the 23d day of November last past, at Boston, in the County of Suffolk, in and upon one George Parkman, feloniously, wilfully, and of his malice aforethought, did make an assault; and that he the said John W. Webster, with a certain knife, which he then and there in his right hand had and held, him the said George Parkman, in and upon the left side of the breast of him the said George Parkman, then and there feloniously, wilfully, and with malice aforethought, did strike, cut, stab, and thrust, giving

to the said George Parkman, then and there, with the knife aforesaid, in and upon the left side of the breast of him the said George Parkman, one mortal wound, of the length of one inch, and of the depth of three inches, of which said mortal wound, the said George Parkman then and there instantly died. And so the Jurors aforesaid, upon their oaths aforesaid, do say that the said John W. Webster him the said George Parkman, in manner and form aforesaid, then and there, feloniously, wilfully, and of his malice aforethought, did kill and murder, against the peace of the Commonwealth aforesaid, and contrary to the form of the statute in such case made and provided.

And the Jurors aforesaid, upon their oaths aforesaid, do further present, that the said John W. Webster, at Boston aforesaid, in the county aforesaid, on the twenty-third day of November last past, in and upon the said George Parkman, feloniously, wilfully, and of his malice aforethought, did make an assault; and that he the said John W. Webster, then and there, with a certain hammer, which he the said John W. Webster in both his hands then and there held, him the said George Parkman, then and there, feloniously, willfully, and of his malice aforethought, did strike, giving unto him the said George Parkman, then and there, with the hammer aforesaid, in and upon the head of him the said George Parkman, one mortal wound, of which said mortal wound he the said George Parkman then and there instantly died; and so the Jurors aforesaid do say that the said John W. Webster him the said George Parkman, in manner and form aforesaid, then and there, feloniously, wilfully, and of his malice aforethought, did kill and murder, against the peace of said Commonwealth, and contrary to the form of the statute in such case made and provided. And the Jurors aforesaid, upon their oaths aforesaid, do further present, that the said John W. Webster, of Boston aforesaid, in the county aforesaid, on the 23d day of November last past, in and upon the body of the said George Parkman, feloniously, wilfully, and of malice aforethought, did make an assault; and that the said John W. Webster, then and there, with his hands and feet, him the said George Parkman, feloniously, wilfully, and of his malice aforethought, did strike, beat and kick, on and upon the head, breast, back, belly, sides, and other parts of the body of him the said George Parkman, and did then and there feloniously, wilfully, and of his malice aforethought, cast and throw the said George Parkman down unto and upon the floor with great force and violence there, giving unto the said George Parkman then and there, as well as by beating and striking and kicking of him the said George Parkman down as aforesaid, several mortal strokes, wounds and bruises, in and upon the head, breast, back, belly, sides, and other parts of the body of him the said George Parkman, of which said mortal strokes, wounds and bruises, he the said George Parkman then and there instantly died; and so the Jurors aforesaid do say that the said John W. Webster him the said George Parkman, in manner and form aforesaid, then and there feloniously, wilfully, and of his malice aforethought, did kill and murder, against the peace of said Commonwealth, and contrary to the form of the statute in such case made and provided.

And the Jurors aforesaid, upon their oaths aforesaid, do further present, that the said John W. Webster, of Boston aforesaid, in the

County aforesaid, in a certain building known as the Medical College, there situate, on the 23d of November last past, in and upon the said George Parkman, feloniously, wilfully, and of his malice aforethought, did make an assault on him the said George Parkman, in some way and manner, and by some means, instruments and weapons, to the Jury unknown, did then and there feloniously, wilfully, and of his malice aforethought, deprive of life, so that he the said George Parkman then and there died; and so the Jurors aforesaid, upon their oaths aforesaid, do say, that the said John W. Webster him the said George Parkman, in the manner and by the means aforesaid, to the said Jurors unknown, then and there feloniously, wilfully, and of his malice aforethought, did kill and murder, against the peace and dignity of the Commonwealth aforesaid, and contrary to the form of the statute in such case made and provided.

DAN'L RHOADES, Foreman Grand Jury.

JOHN H. CLIFFORD, Attorney General.

To this indictment, the Jury were informed, the prisoner at the bar had pleaded *Not Guilty;* and that they were here, upon their oaths, to try the case, and true deliverance make.

At this stage of the proceedings, the Attorney General rose and said: I would state, may it please your Honor, that from the great variety of circumstances connected with this case, and owing to the fact that the attorney for this county has business in another Court, I have been under the necessity of calling in my friend, Mr. Bemis, a member of the bar in this county, to help arrange the case. He has rendered me that service, and I would ask the Court that he may be permitted to assist me on the trial, in the introduction and presentation of the testimony to the jury.

Judge Shaw. It is granted.

OPENING OF THE CASE, BY MR. CLIFFORD.

May it please your Honors, and you, Mr. Foreman and Gentlemen of the Jury: —

In entering upon our respective duties, Gentlemen, in a case of so much interest and importance as the one now before us, I am sure that none of us can need anything like admonition to impress us with the sense of our responsibility, or anything like exhortation to a conscientious fidelity in discharging ourselves of that responsibility. Least of all, Gentlemen, do I deem it necessary to introduce that so common topic of *caution* to a jury, that they shall keep themselves free from all excitement which may prevail upon the subject of their investigations out of doors; an excitement, Gentlemen, in this case, which undoubtedly has affected the whole community, and which arises, and has arisen, out of an event which must have caused it in any community in which life would be tolerable. But here, Gentlemen, in the clear, calm light of justice, in this Temple of Justice, we are to investigate an issue, and endeavor, with all the aids and lights which the ordinary course of legal procedure may place in our hands, to ascertain the simple truth of the accusation which is brought by

the Grand Jury against the prisoner at the bar. You are to try this cause as you would any other cause which you had sworn to try upon the evidence. I am to conduct it, Gentlemen, so far as I have the conducting of it, just as I would any other cause, going to the management of it fairly, faithfully and frankly, as I am obliged to do by my official position.

We are all engaged, not in a service of our own seeking, but in one imposed upon us by our various obligations to the Commonwealth, to the community, and to the prisoner at the bar. These duties are painful to us, Gentlemen, laborious and responsible; but they are duties; and that single word carries with it all that need be addressed to right-thinking, right-feeling and conscientious men. They cannot be evaded or slighted, and all that we can hope for is, by faithfully and patiently addressing ourselves to what has devolved upon us in our respective spheres of duty, to bring this issue to a righteous and just result.

The Grand Jury of this County, after a careful and patient investigation, have upon their oaths charged upon the prisoner at the bar the crime of wilful and deliberate murder. You have been selected from among the mass of your fellow-citizens to hear the evidence on which this charge is founded, to listen to all the explanations and answers which the prisoner may offer to that evidence, to receive from this, the highest judicial tribunal of the Commonwealth, such instructions and directions as will enable you to apply intelligently the rules of law to that evidence, and then to pronounce whether that charge is true.

This, Gentlemen, is your high and responsible duty; the highest, the most responsible, that, under a system of government like ours, is ever confided to the citizen. Mine is of a different character, Gentlemen, though I trust tending to and leading to the same result; and the view that I take of it will be an explanation of the mode in which it is my purpose to open this cause, and introduce to you the evidence, which, with the aid of my associate here, I shall have occasion to lay before you.

I desire, Gentlemen, here in the very opening of these proceedings, distinctly, and under the sense of the responsibility which rests upon me, to apprise you of the view that I take of my duty in the case. I regard it, Gentlemen, to a great extent, in its essential character, as a judicial one. I am here to aid and assist you, as well as I am able, in arriving at the truth. The too common idea of the functions of a prosecuting officer, that he is to press a prosecution beyond what any fair-minded seeker after truth would press it, I repudiate and disavow. I have always done so. And if such a demand were made upon me by the supposed exigences of my office, I certainly would not hold that office for a single hour. I am here to represent the Commonwealth, to see that, as far as in me lies, the justice of the Commonwealth is vindicated, and the rights of every person who is charged with violating it no less protected. I shall endeavor, therefore, to perform that duty with fairness to this prisoner, and fidelity to the community and the Commonwealth, which you and I alike represent here.

In this view of our respective duties, I shall confine myself, in the opening of this case, to as plain, simple, and concise a statement as is practicable of the evidence which we expect to lay before you. I shall

endeavor, scrupulously, not to preoccupy your minds, or to forestall your judgments, by any comments upon or inferences from that evidence. Nor shall I indulge in the discussion of any general topics, however naturally they may seem to be suggested by or to grow out of the facts presented to you. But I shall content myself, and feel that I shall best discharge the duty devolving upon me in doing so, with presenting you with an outline of the facts; not going into a detailed and minute statement of every fact, but with such an outline of the facts within the possession of the Government, as will facilitate your inquiry, and indicate the grounds upon which the Grand Jury, another body of your fellow-citizens, acting under the like sanctions which have now been imposed upon you, have made their presentment against this prisoner.

That presentment involves two general propositions. The first is, that Dr. George Parkman, the person named in the indictment, has been murdered. The second is, that he was murdered by John W. Webster, the prisoner at this bar. I propose, Gentlemen, to give you an outline of the evidence applicable to these two propositions, independent of each other, and then to ask your consideration, under the direction of the Honorable Court, to the form in which they have been presented by the Grand Jury in the several counts of the indictment, and the law applicable to them.

We shall offer, then, Gentlemen, in the first place, evidence to show you that Dr. George Parkman, a well-known and highly respectable citizen of Boston, was living, in good health and cheerful spirits, on the morning of Friday, the twenty-third day of November last; that he was engaged in his usual occupations, on that day, up to fifteen minutes before two o'clock, at which time he was last seen alive, about entering the Medical Building in Grove-street.

He did not return to his dinner on that day; a fact which, on account of the habits of Dr. Parkman, was of itself calculated to excite some uneasiness in his family. He was a man scrupulously careful to be home at the ordinary hours of his meals; and if ever necessitated to be absent, he was most particular in apprising his family of the cause, and of his whereabouts. It will appear that he had at that time an invalid daughter to whom he was tenderly attached, in whom he was as much bound up as a father ever is in his child; and upon that day, on account of her condition, and to administer to her wants in the sick chamber, he had purchased a quantity of lettuce, which, at that season, was a rare plant, and which will appear from the evidence, he intended to take home with him in going to his dinner.

It will appear that Dr. Parkman left some lettuce in a shop near the Medical College, with the intention of returning to take it, and thence to carry it home. At that shop, it will appear that he made certain purchases. He did not return. The lettuce remained there. After he went to the Medical College, although he was expected to return in a few minutes to take it, he did not return, and he did not return to his home.

His friends and his family became alarmed. They waited, however, till the next morning, before any public movement was made in relation to it. On that day, those connected with him, those who had been in his employment, those who had transacted business for him, those who knew him and knew his habits, were informed of his disap-

pearance, and a general search, though conducted with some less publicity than was afterwards resorted to, was commenced on that day — on Saturday.

The police were summoned to aid in that investigation and search. And in the course of the day, it becoming apparent that he must either have met with foul play somewhere, or that he had wandered away from his home, notices were published in the evening papers of Saturday, calling the attention of the entire public to the fact of his disappearance.

Judge Shaw. Was Friday the day?

Mr. Clifford. Friday was the day of his disappearance, Saturday of the publication. Rumors of his having been seen were rife. They were traced in every instance, when brought to the knowledge of those who conducted this search, and were found in every instance to be entirely unfounded. His friends and the police heard so many confident statements of his having been seen in different parts of the city, that in one of the advertisements, which was published at a very early period after his disappearance, he was represented by them as having been seen in or near Washington-street on Friday afternoon, at five o'clock. But on tracing this rumor, as all others were traced, to its source promptly and at the time, it was satisfactorily ascertained, by those who had the greatest interest in following them up with assiduity, vigilance and care, that the parties, in every instance, were either mistaken in respect to the time when he was seen, or in the identity of the person.

Gentlemen, the police, the entire police of this city, were brought into requisition. Handbills were issued, offering the most liberal rewards. And whatever may have been the hopes and expectations of those who looked for his coming, for his return, when those rewards were offered to the public, to the police, to everybody — whatever might have been their hope or expectation that he had wandered off — when they brought no tidings of him, (rewards of very large amount, $3000 one of them,) that hope gave way, and the conjecture and apprehension which had possessed the minds of his friends, the police and the public, deepened into certainty, that he was not in the land of the living.

In the course of the Sunday, Gentlemen, the following day after the first publication of the notices — and I now propose, for your convenience, to give an outline of what will be proved, chronologically, in the order in which it took place — on Sunday, his family learned from Dr. Webster, the prisoner at the bar, that on the Friday previous he had been in his company between the hours of one and two o'clock. The circumstances under which that communication was made to the family will be a subject upon which I shall have occasion, in another stage of these proceedings, to advert perhaps, but I now speak of it only as one fact in connection with the disappearance and the attempt to discover the whereabouts of Dr. Parkman. The search was continued through the week — Monday, Tuesday, Wednesday, Thursday, and up to Friday of the following week. And although, Gentlemen, the friends of Dr. Parkman and the police who were engaged in this search did occasionally hear, as I have already remarked, that he had been seen after the time when he is represented to have gone into the Medical College, and followed up every account,

— going to Salem, going to East Boston, going to different parts of the city, where he was reported to have been seen — followed up with great diligence every one of these rumors that came to their knowledge, and they all turned out to be entirely unfounded.

It may be stated here, perhaps, with propriety, that doubtless others may have honestly believed that they saw Dr. Parkman after that period. But so far as it has come to the knowledge of the Government, Gentlemen, no person has appeared to state that Dr. Parkman was seen and conversed with from the time that we shall show that he entered the Medical College, ten or fifteen minutes before two o'clock on that Friday; and the inevitable and unavoidable inference is that he is dead.

I ought to state to you that the evidence will show how thorough the search was. The river was dredged. The yards, the outbuildings, the dwelling-houses in the west part of the city, where Dr. Parkman was known to have had a large property, were thoroughly and faithfully searched.

On Monday and Tuesday, Gentlemen, there was a search at the Medical College. The manner of it, the extent of it, the character of it, particularly with reference to the rooms which were occupied by this prisoner, Dr. Webster, will be a subject which will demand your consideration hereafter. I merely state now that this search at the Medical College was a mere formal one; no suspicion on the part of the police then having attached to Dr. Webster; and such a suspicion, of course, being very unlikely, unless upon some strong ground, to be fastened upon him by any one.

Thus, Gentlemen, it will be made to appear to you that Dr. Parkman was seen and traced, as I have already stated, and at the time that I have stated; and that from that time to the present there has been no person, so far as the Government is aware — no person who can, so far as anybody is aware, correctly and truly state that he has since been seen. Whatever may be the impressions, like those which I have already suggested were entertained with the strongest belief and idea, the Government are compelled to believe, that from that Friday noon he has not been seen alive, independently of the evidence which I shall now proceed to state.

On the 30th of November, the Friday after his disappearance, in the vault of a privy connected with the defendant's laboratory at the Medical College, were found parts answering to the description of Dr. Parkman. They consisted of a pelvis, (the hip bones,) the right thigh, (from the hip to the knee,) the left leg, (from the knee to the ankle;) and with them were found certain towels with the initial of the prisoner, and similar to those used by him in his laboratory. On that day, Friday, and the next day, Saturday, were also found in the furnace of Dr. Webster's laboratory, fused in with the slag and cinders, as the evidence will show you, and which you will consider important in one view of this case — fused in indiscriminately with the slag, the cinders, the residuum of the coal — a great number of bones, and certain blocks of mineral teeth. Certain quantities of gold which had melted were also found, and other substances, which will be disclosed to you by the testimony.

On Saturday morning, or in the course of the day, certainly — I do not mean before meridian — in the course of the day, Saturday, in

addition to what I have already stated as found in the laboratory, there was found, in a remote corner of that laboratory, in a place where it had been noticed but had not been examined, (had been noticed so early as the Tuesday previous by one witness, who will state the circumstances under which he observed it,) there was found a tea-chest, containing, imbedded in a quantity of tan, and covered with minerals, the thorax or entire trunk of a human body, the left thigh, from the hip to the knee, and a hunting-knife, of a peculiar character, and around the bone of the thigh, a piece of twine or marline, which will be produced — a specimen of which will be produced here, with other specimens found in his laboratory. These parts were subjected to the examination of competent medical and scientific men. They were put in apposition, — I speak now of the parts found in the privy and in the tea-chest, independent of the bones found in the furnace, — they were put in apposition, and found to resemble, in every particular, the body of Dr. Parkman, or such portion of the body as these parts corresponded to; and, in no single particular, dissimilar to the body of Dr. Parkman.

There were missing from this human body, when placed in apposition, the head, the arms, hands of course, both feet, and the right leg from the knee to the ankle. The evidence will probably satisfy you, Gentlemen, that they they belonged to a person about the age of Dr. Parkman. He was about 60 years of age. The evidence will also show that the form was peculiar, as his was peculiar. It will be testified to you by the witnesses, that the height, 5 feet 10¼ inches, corresponded precisely to the height of Dr. Parkman, taking, as the witnesses will explain to you, the average length for these missing parts — the head from the neck, and the foot from the ankle.

It is not necessary for me to detain you by details. The witnesses will explain to you how they reach this result, to which they come, — that the height of the person to whom these parts belong was 5 feet 10½ inches. And we shall show you, by the passport of Dr. Parkman, that he was of precisely that height. The evidence will also prove that he was of a peculiar form and shape, and that this body was also of that peculiar form and shape; that the hair indicated something similar, and in no respect dissimilar, to that of Dr. Parkman.

But then, Gentlemen, we shall put into this case evidence which, upon this point, I shall leave you to judge of, and to take the proper estimate upon. For I am not here to comment upon it, but merely to state to you a general outline of what it is. Of the bones found in this furnace, not a fragment was found which duplicates any one found in the vault or the tea-chest, but every particle of bone belonged to some part of a human body not found in that vault and tea-chest; showing that unless by a miracle they agreed, the bones found in the furnace, the parts found in the tea-chest, and the parts found in the vault, all constituted portions of one human body.

The Sheriff. Silence in the gallery! Silence!

Mr. Clifford. There will also, Gentlemen, be some evidence which will perhaps indicate to your minds a probability at least, if not a conviction, that some of the bones found in the furnace were fractured before they had ever been subjected to the action of fire — the bones of the cranium, (of the head.) I say that there may be some evi-

dence of this, (you will understand me in stating this point, — the extent and weight and force of it you will judge of hereafter,) indicating that before the bones were subjected to the action of fire, those bones had been fractured.

Then, Gentlemen, you will have placed for your inspection a block of mineral teeth, which was found in that furnace, and found so near the bottom of the furnace that it took the current of cold air, — found resting upon the grate, a fact of some significance, — a block of mineral teeth, which will be testified to by two gentlemen, accomplished dentists, to be the teeth of Dr. Parkman, made for him in 1846, upon an occasion which Dr. Keep distinctly recollects, recognizing his own work, and beyond that giving you the grounds upon which he feels the confidence that he will express in his testimony; a confidence so strong, from his recollection of the work itself, and the formation of these teeth, the peculiarities of their formation, and other facts, that if he had seen them in Africa, or beyond the sea, he should have known them to be the teeth which he made for Dr. George Parkman, in the autumn of 1846. There were other portions of mineral teeth found, which will go to aid you in your judgment of the reliability of the testimony of Dr. Keep, but which are not so characteristic as the block of which I speak. It will be shown that Dr. Keep has in his possession, and can produce now, a mould of the entire jaw of Dr. Parkman, taken at the time he made this block of mineral teeth. You will see, by that mould, which will be testified to you by Dr. Keep, that it is a mould which showed the peculiar conformation of Dr. Parkman's jaw, — a peculiarity so great, that you could not find, through any caprice of nature, another precisely like it.

The Sheriff. Quiet in the gallery!

Mr. Clifford. It will appear from the evidence, that these mineral teeth must have been cast into that furnace in connection with the head. That will be made perfectly clear and apparent to you, upon the evidence, found in connection, as they are, with certain portions of the bones, which will be explained to you by another medical, anatomical and scientific witness.

Beyond this, you will have exhibited to you, from among the bones, the bones of the right lower jaw, found in that furnace, in fragments, in portions, there broken and with serried edges, put together to show that they belonged to one and the same jaw; and the conformation of that jaw, when thus put together, you will find precisely like that taken in the mould in 1846, by Dr. Keep. This will be the nature of the evidence to satisfy you that Dr. Parkman came to his death as charged in that indictment, and in connection with the Medical College.

There are one or two points, before proceeding to the other evidence, which I shall offer, to which it may be proper, in this connection, to advert. The thorax, which I have spoken of as having been found in the tea-chest, exhibits a perforation, upon which there will be evidence laid before you to show that it was a wound which penetrated between the ribs, taking off a portion of the membrane which covers one of the ribs, and entering the region of the heart. It will also appear to you, Gentlemen, that to these remains there have been chemical applications made of strong alkalis, which, upon a chemical analysis, is found to be demonstrated by an accomplished chemist,

who will be here to state the result of his examination. The inferences to be drawn from these facts cannot now be properly presented.

It will be demonstrated to you, that these remains are not the remains of a subject in the Medical College, for two reasons: one, that there was no injection in the veins of any preservative fluid, which is the invariable custom there; and, secondly, that all the subjects are accounted for, independent of this, by Dr. Ainsworth, who keeps an accurate record of them.

The evidence will show you, that the remains were separated (I was about to say mutilated, but separated, perhaps, will be a better word) by some person having an amount of anatomical skill, though evidently not dissected for anatomical purposes. There are various other facts, in connection with these remains, which I will not detain you to recite. You will appreciate them as they come from the witnesses. This is the nature of the evidence upon which the Government say that those were the remains of Dr. Parkman, and that he must, upon this state of facts, have come to a violent death.

Well, Gentlemen, if Dr. Parkman was murdered, and you are satisfied of it, then comes the other great question, Was it by the prisoner at the bar? This inquiry will lead us back to the state of facts long prior to the disappearance of Dr. Parkman. We shall offer evidence to show the connection between the deceased and the prisoner. There has been a business relation between them since the year 1842, when there was a loan of money made by Dr. Parkman to Dr. Webster. Since that time, Dr. Webster has been embarrassed, and even reduced to great straits, for money,—so much so, that certain property which he had, had been subject to certain conveyances, which we shall put into the case, and ask you to judge of them. At the time when this death of Dr. Parkman occurred, all the personal property which Dr. Webster had in the world was under mortgage to Dr. George Parkman.

Dr. Parkman was a large property holder. He was accustomed to make loans to others; and it will probably appear to you in the evidence, that, though a liberal man in his gifts, he was very exact in all his business relations. A just man himself, he exacted justice from others; willing to be judged by a strict rule himself, he wished to judge others by the same rule.

He loaned the prisoner, in 1842, $400, and took his note for it. This continued along to 1847, at least, not paid in full, when Dr. Parkman made one of a number to loan to Dr. Webster a certain sum of money, to meet the pressing demands against him. Arising out of, or connected with these transactions, Dr. Parkman took from Dr. Webster a mortgage on all his personal property, including his household furniture and his cabinet minerals, to secure what was advanced, and also to secure the balance which was due from the note of 1842, that balance being $342.83. In April, 1849, such were the relations between these two parties. A friend of Dr. Webster's had an interview with Dr. Parkman, and furnished a statement of the amount then due from Webster to Parkman, which was $427.27.

About that time, Dr. Parkman was informed that this property mortgaged was sold to his brother-in-law, Robert G. Shaw. It will appear that these cabinet minerals, and all his other property, being

under mortgage to Dr. Parkman, he made an application to Robert G. Shaw to raise money by loan, offering these very minerals which were under mortgage to Dr. Parkman, and representing his necessity as so great that an officer was about to enter his house and take his household furniture for debt. Mr. Shaw, commiserating his condition, having no knowledge that his brother-in-law had already a mortgage upon all his property, agreed to advance to Dr. Webster the sum of $1200. He did advance it in different amounts, and I believe one portion of it by a note, which Dr. Webster had discounted at the Charles River Bank. Subsequently, Dr. Parkman learned of the conveyance of these minerals to Mr. Shaw, and was greatly incensed, and thought it an act of fraud, and avowed his determination to make him pay his debt.

The evidence will show you that from this period he constantly pursued him as a creditor who felt that his confidence had been violated, and who regarded his debtor as a fraudulent and dishonest man. Indeed, the evidence will show you that he not only held these opinions, but communicated them very recently, before his disappearance, in a message to Dr. Webster himself. It will also probably satisfactorily appear, Gentlemen, that Dr. Webster had obtained further and further delay from Dr. Parkman, under a promise that he would pay him from the proceeds of his tickets for the lectures in the Medical College.

And here I ought to show you his connection with the Medical College, as independent of his Professorship in Harvard College. He was a Professor in both. His compensation for services in the Medical College depended generally, as I understand it, upon the sale of tickets to the students. It is not material whether I am right in this statement or not, but I understand that the compensation depends principally upon the sale of tickets. The Professors had made an arrangement with a very respectable person, Mr. Pettee, connected with one of the banks, to act as their collector of the money paid for these medical tickets. These lectures commenced on the 7th of November. Dr. Parkman, as early and as promptly as the 9th of November, having in view the purpose which he had avowed of compelling Dr. Webster to pay his debt; and having, also, in his memory Dr. Webster's promise to the payment of the debt out of the proceeds of the sales of tickets, — the lectures having commenced on the 7th, Dr. Parkman calls on Dr. Webster on the 9th, and insists then upon payment of his debt. Dr. Webster then requests him to wait for a further period — that he had not yet received the money for his tickets; and he induced him, according to his own statement, to wait for a further time.

It will appear, Gentlemen, that at that time Dr. Webster had in fact received a considerable portion of his money, but it had gone to other purposes than the payment of Dr. Parkman. There were other debts hanging over him from the medical Professors. There was one note to Dr. Bigelow, which was paid.

Dr. Parkman, still pursuing him, not satisfied with his explanations, on the 12th of November calls on Mr. Pettee, the collecting agent, to ascertain what may be Dr. Webster's condition, and determine how much he has in his hands. He calls again on the 14th, two days afterwards, and then he threatens a trustee process, or speaks of it as the only mode of getting his pay from Dr. Webster; and then he sends a message by the collector to Dr. Webster, saying that he was

a dishonorable and dishonest man. On Monday evening, after the repeated subterfuges of Dr. Webster, he calls on him again, and says, with anger, that something must be done. On the next morning, Dr. Webster writes a note about the interview. On the day before his disappearance, Dr. Parkman rides out to Cambridge, still in pursuit of Dr. Webster. And this was the relation of these parties on the morning of that fatal 23d of November. The improvident debtor evading payment of his debt! The creditor resolutely pursuing!

On that morning, the 23d of November, Dr. Webster called at the residence of Dr. Parkman, in Walnut-street, and there made an appointment to meet him at his rooms, to pay him, at one and a half o'clock on that day. That is a fact, and will be proved. Though no person in the family knew that Dr. Webster was the man who called, yet the whole evidence will show you that this must be the case. He did not call at Dr. Parkman's house to pay him, but to make an appointment with him to meet him there at a time when the College would be vacated by the students, his lecture terminating at one o'clock, and the meeting being between one and two. Dr. Webster has an interview with Mr. Pettee about 9 o'clock on that morning. Mr. Pettee was anxious to get out of his hands whatever he had, in consequence of his having been requested by Dr. Parkman to pay him what was due. He sought Dr. Webster at the Medical College, and paid him the balance of $90, which was what he had in his hands, and there informs Dr. Webster of Dr. Parkman's threats of the trustee process, and he then makes the reply to Mr. Pettee, "You will have no further trouble with Dr. Parkman, for I have settled with him." His lecture-days —

Chief Justice Shaw. Mr. Pettee paid him?

Mr. Clifford. He paid him $90. Perhaps I may as well state in this connection as any other, that, from the beginning to the end, it will appear that Dr. Webster had held out to Dr. Parkman the expectation, and that Dr. Webster had represented to others besides Dr. Parkman his intention, of giving this money from the sales of tickets to Dr. Parkman. We shall show you that in that Dr. Webster has falsified. We shall show you that not one dollar of that money received from tickets could have gone to Dr. Parkman. This $90, received, on the morning of the day of the disappearance, from Mr. Pettee, was in his possession the next day, and was deposited by him in the Charles River Bank. His account there will be open to any explanation which the prisoner and his counsel may be enabled to give. I was proceeding to remark that the lectures —

Judge Shaw. Stop one moment, Sir. What did you say was done the next day?

Mr. Clifford. I said that the amount received from Mr. Pettee was deposited in the Charles River Bank on Saturday, and was not, therefore, paid to Dr. Parkman. I was about proceeding to remark, that Dr. Webster's lecture-days were Tuesday, Wednesday, Thursday and Friday; that he had no lectures on Saturday or Monday. And, therefore, you will observe that the longest interval he had during the week, when his official engagements did not call him to the College, was after Friday. It will appear that on that Friday he remained at the College till after candle-light; that he was seen by more than one person at so late a period as that; that he was there again on

Saturday — at the College; that he was there again on Sunday — an unusual thing; that the doors, which ordinarily and usually had been left unfastened when he was absent from the College, were fastened, and that the key of one door, which he kept deposited in a certain place, up to that period, and to which one witness, who had occasion frequently to go to his rooms, had access, was removed by Dr. Webster himself, and carried away from the building; that on Saturday, which is the cleaning day in the Medical College, the day for cleaning the rooms, the janitor, who had charge of these rooms, and whose duty it was to clean up for the next week, went into Dr. Webster's room. I hope that you will be able to understand the locality. There may be some difficulty in making my present opening statement clear to your correct appreciation of all the points which it may be necessary for me to suggest. We shall endeavor to obviate that difficulty.

I was observing that on Saturday he went into Dr. Webster's back room, which is a room in the rear of his lecture-room — not into the laboratory, which is below, on the basement floor; that he went into this room, and that he tried to go down to the laboratory, and that Dr. Webster ordered him out through the lecture-room door.

I have already said that Dr. Parkman's friends, after making an anxious search for him on Saturday, had gone so far, on that day, as to publish his disappearance in the evening papers. It will appear that Dr. Webster took one of those evening papers, which contained the advertisement. It will also appear to you — a vast and important fact in this connection to be stated — that Dr. Webster's relations to certain members of the family of Dr. Parkman were somewhat peculiarly intimate; that to Dr. Francis Parkman he had been a parishioner, with his family; that a very short time previous to this evening, Dr. Parkman had gone out to perform a pastoral office of friendship for Dr. Webster; and that their families were on terms of considerable intimacy — that their families were, whatever may have been the relation between the heads of those families. The first disclosure of the fact of an interview which took place between Dr. Webster and Dr. George Parkman, is made by Dr. Webster to Dr. Francis Parkman himself, on the afternoon of Sunday. During the Saturday previous, and Sunday morning, the family of Dr. Parkman were in a state of intense anxiety, and the first intimation that he had been with Dr. Webster was in the afternoon of Sunday, between three and four o'clock.

It will appear to you, that Dr. Webster did know the fact of the disappearance, on Saturday evening; that he stated that he saw it in the *Evening Transcript;* and that there was no communication to the family of Dr. Parkman till four o'clock on the afternoon of Sunday; and then it was made in such a manner, and in such a spirit, as to have excited the surprise, to say the least, of Dr. Francis Parkman, to whom the communication was made. The manner of making that communication will be a fact in this case, which the Government will lay before you from the testimony of Dr. Francis Parkman himself. It will appear that on that day, on Sunday, he made the statement to Mr. James H. Blake, to Mr. Littlefield, the janitor, in company with Mr. Calhoun, to the toll-gatherer, and on that evening to Mr. Thompson, a clerk in the Registry of Deeds, at Cambridge.

I shall not forestall your judgment by stating these facts more minutely. I prefer that you take them from the witnesses.

Substantially the statement is, that Dr. Parkman came to the Medical College by an appointment Dr. Webster had made with him on that day, under a promise to pay the note; that he did come in; that Dr. Webster paid it in the lecture-room, stating the precise amount; that he immediately received it, and started to go out, without leaving any evidence of its having been paid; that, on Dr. Webster's reminding him of this, he thereupon turned back, and dashed his pen over the signature of the note — over the signature, Gentlemen — telling Dr. Webster that he would attend to the cancelling the mortgage at Cambridge; and that Dr. Parkman left him there, going over the staircase two steps at a time; that he had no recollection of the money which he gave him there, but at another time saying that among the notes was a $100 bill of the New England Bank. The statements of Dr. Webster are not consistent. He has stated to one witness that there were two persons present, to others that there was no person present; to one witness that he did not know what the money was, to other witnesses that he did remember that there was a $100 bill of the New England Bank. And, throughout the whole of this transaction, it has been placed by him distinctly upon the ground that he did, from the proceeds of the tickets to that course of lectures, pay to Dr. Parkman $463.84, which was the amount that was due to him.

You will find that Dr. Webster's statements are irreconcilable. We shall produce evidence to show that his whole statement is a fable and a pretence: that he did not pay Dr. Parkman the money which he said he did; and that he has not the recollection of the transactions which took place on that day, which he says he had. We shall show you, Gentlemen, that all the money for the sale of these tickets went elsewhere.

Then, Gentlemen, you will have occasion, going on further in his conduct during that week, to examine a variety of facts like these: That, you will remember, was Thanksgiving week. That Thursday, the 29th of November, was Thanksgiving day. It will appear that after Tuesday of that week there were no lectures at the College. It was a week of vacation, of leisure. Yet, Gentlemen, during that week, Dr. Webster is present at the College, at times constantly, which was unusual. It will be placed in evidence before you, that he wanted no fires made in his rooms that week; and yet, Gentlemen, we shall satisfy you that he had fires that week, built by himself, of a more intense heat than had ever been built there before.

We shall show you, Gentlemen, that as early as Tuesday of that week he made a purchase of several large fish-hooks, which were found afterwards upon the premises, under certain circumstances, which the evidence will connect, probably, to some extent, with these remains; that on the Friday following, he purchased, or attempted to purchase, other fish-hooks; but that, in point of fact, he did purchase fish-hooks on Tuesday.

It will be shown to you, that there was found in the Medical College, in his apartments, a grapple, or grappling, as it was sometimes called, made of fish-hooks; that the fish-hooks were fastened on to a staff by a peculiar species of twine, or marline, quite peculiar in its

thread or twist, as will be testified to you by a competent person, an expert in that *line*. And that around the thigh-bone is a piece of the same description of twine and marline, and upon the exhibition of the two pieces of twine — upon the exhibition of these same pieces which were found — you will be called upon to state whether they are alike.

Then I have adverted, also, to something which will come now before you, in connection with the deportment of the prisoner — to the fact that his rooms were searched. The evidence will show you that his rooms, or some of them, were passed through by some of the police officers as early as Monday; that on Tuesday, Mr. Kingsley, the agent of Dr. Parkman, whose mind had become impressed with the conviction that he never came out of the Medical College, went there, to the Medical College, with the police, and that they went through the rooms of Dr. Webster, Mr. Kingsley being present with the officers; that at that time, on Tuesday, the officers, in company with Mr. Kingsley, the agent of Dr. Parkman, the man who had been engaged in the transaction of his business for several years, and who felt great interest in this search, went through these rooms. The conduct of the prisoner, at that time, will be shown; the fact that the officers suffered themselves to be called off from the privy; that the officers, when asking about that, and when replied to by Mr. Littlefield, that it was the private privy of Dr. Webster, who has the key, were led off by Dr. Webster to another room, they not having any suspicion of Dr. Webster, and most reluctant to believe anything against him; that there was a fire in the furnace at that time; that during that search, the tea-chest, in which these remains were found imbedded in tan, was seen by Mr. Kingsley, which you will consider a very material fact, when you weigh all the circumstances.

Then, Gentlemen, it will appear to you in evidence, that on Monday, Dr. Webster gave directions to the express man, who had always been in the habit of going in with entire freedom — that he gave him directions, on Monday morning, to bring certain things from Cambridge, which he did bring on that day, certain fagots and boxes, and told him to leave them outside; that on Wednesday he carried other things there, and went to Mr. Littlefield's apartments; that Dr. Webster usually kept the key; that the key was gone, and he had then to leave his things outside.

Then it will appear, in the course of that week, Dr. Webster was extremely anxious to have it appear, in his conversations with various persons, that Dr. Parkman had been seen going over to Cambridge, after he was said by him to have been at the Medical College. His manner was striking, and the circumstances under which he displayed it were peculiar. You will probably give a great deal of significance to this. We shall show that he went so far as to urge upon one lady the declaration that she saw Dr. Parkman on the afternoon of Friday, she believing that, if she saw him at all, she saw him on Thursday; that Dr. Webster went to her and asked her whether she was certain, and related certain circumstances which will have an effect in determining your minds with respect to the sincerity of Dr. Webster.

On the same day, he went to a mechanic in this city, and having ordered a stout tin box, made declarations of Dr. Parkman's having been seen in Cambridge; and he also went on, in the same interview,

and stated a story, which he said was verified, that, through certain mesmeric operations, it was discovered that Dr. Parkman's body was found, and that it had been carried off in a cab, upon which there was some blood. This he stated on Friday, the day of the arrest.

That box he was very anxious to have made very strong, and in such a manner that he could solder it up himself perfectly tight. The particulars of that interview, and the fact that Dr. Webster had never had such a box made before for him, by the mechanic, Mr. Waterman, although he had had a long account with him for a series of years, will be put in evidence before you. He gave orders, in relation to it, which were somewhat inconsistent. The cause of it, however, the Government cannot explain. I trust that he may.

Then, there is another branch of this case, to which the Government will ask your intelligent attention. Much has been said, and I think it has approached, Gentlemen, almost to a degree of cant, about moral evidence, of late. There is, doubtless, a species of moral evidence which should have the greatest weight upon the human mind, which should have the strongest effect in producing conviction and belief of innocence; and all that is proper and legitimate on behalf of the prisoner will be put in here, and you will give it its due weight. On the other hand, I hope you will give heed to a class of evidence going to show, that, in the progress of these events, Nature has spoken out in this prisoner himself, ejaculations have transpired, when he intended to have kept his mouth sealed and locked; that inquiries have been made by him which imply much more than an innocent consciousness; and these will be shown not only with the circumstances connected with his arrest, but continuing through a period of time which followed it.

On Thursday, Gentlemen, certain steps were taken, in consequence of certain suspicions which had before been conceived in the mind of Mr. Littlefield, the janitor of the College, to make an investigation, which had not been made by the police, of the vault of the privy connected with Dr. Webster's laboratory. I have already stated to you the circumstances under which he had made allusion to that. The officers on that day went down and examined that vault, and it will be made apparent to you that there was no mode of access to this except through the privy above, of which Dr. Webster himself kept the key.

Well, Gentlemen, you will have to consider the testimony which bears upon the finding of those remains in connection with other branches of this case, and you may be very liable, you will allow me very respectfully to say to you, confiding as I certainly do in your manifest intelligence, which I see in your countenances, to be misled in weighing that testimony, unless you do it in connection with the other branches of the case, which it would not be proper for me now to advert to. I do not intend to ask you in advance what degree of weight you will give to the testimony, but I do ask you not to give a premature judgment of any evidence put into this case either by the government or the prisoner.

I think you will find, by this evidence, that, as early as the declaration made by Dr. Webster to Mr. Littlefield on Sunday evening, Mr. Littlefield conceived the suspicion that Dr. Webster knew something more than others about the murder of Dr. Parkman; that he commu-

nicated his suspicion on Sunday evening, two days after the disappearance of Dr. Parkman; that, during that week, being the only man who lived in that building, being the man who would have opportunities to know what was going on — that, during that week, he acted in honest belief of that impression, and you will look upon him in some degree as the dependant of Dr. Webster, he being the assistant of the Professors, and relying upon them for his bread; and you will consider how such a man, having a suspicion, would proceed with caution, with the greatest deliberation, fearful that it should ripen into certainty, but that he did act with honest suspicion, until, on Thursday, he attempted to open that vault, which, in addition to Dr. Webster's private room, was the only part which had not been searched, which had no access to it save through Dr. Webster's room, and Dr. Webster himself being bolted in a large portion of the time; and that, on Thursday, he determined to make an entrance into it; that he commenced the work, and found it much more difficult than he anticipated; that he still continued it, however, till he had made something of an approach to an aperture, there being several courses of bricks; that he communicated to other persons his purpose of doing it; that he went on, and, on Friday morning, not having accomplished an entrance, he communicated to two gentlemen of the faculty his purpose — to Dr. Jackson and to Dr. Bigelow; and, following up their suggestions as well as his own, continued his labor; and, while at work, set his wife to watch for Dr. Webster, lest he should approach the building unexpectedly; and this is a fact as being a part of the proof, a part of the *res gesta*, that he set his wife to watch Dr. Webster, and cared not for the others; that Mrs. Littlefield thought, at one time, that Dr. Webster was approaching, and gave the signal which they had agreed upon in this event; that she afterwards found that it was not he; that he continued his work; and the circumstances under which he came up from this work, which enabled him to see what first met his eyes, and afterwards startled the eyes of the whole community, you will consider. You will also judge of his deportment and conduct as he went down to Dr. Jacob Bigelow, and, not finding him at home, went to his son, Dr. Henry J. Bigelow. It will be seen, that they returned; that, on their return to the College, police having been summoned, these remains having been examined in the vault, the Government, having no other alternative, arrested Dr. Webster, a Professor of that Institution, as the murderer of Dr. Parkman.

He was arrested, and it is in this connection that it is proper that I should speak of the testimony of Mr. Littlefield, because, that night, Dr. Webster made declarations inconsistent with each other, and which, I think you will be satisfied, were inconsistent with his own belief; that he charged upon Mr. Littlefield either the commission of this deed, or of being a conspirator. Almost in the same breath, he averred what was inconsistent with the fact of a conspiracy, that those were not the remains of Dr. Parkman, any more than they were his. After his arrest, — and I do not intend to go into that any more than to state that it is important, and you will regard the evidence with proper consideration, — his conduct, from the time he was arrested up to the time of the Police Court, was peculiar. He waived an examination there. You will consider all the evidence which proceeded from him, most especially his declarations with respect to Mr.

Littlefield, and then you will consider certain other evidence to which I might allude if I went into the detail, but which I do not intend to do.

There is one fact, however, to which I will allude, because it will show the importance of these declarations of Dr. Webster, that, on Tuesday, when that tea-chest had the minerals in it, and undoubtedly the remains in it, when there had been a fire in that furnace which must have been known to Dr. Webster — for he was present there before it — that, at that time, he had a conversation with Littlefield, which resulted in what is not dependent upon Littlefield's testimony, but on that of others — that he put to him the question, on Tuesday afternoon, whether he was a Freemason. Mr. Littlefield made a reply, which he will state to you. Dr. Webster then asked him if he had got his Thanksgiving turkey; and he will state that he answered him "No! he had not;" that he then brought out a written order to a provision-dealer to give him a Thanksgiving turkey; the first time Dr. Webster had ever made him a present, and at a time which, according to his subsequent declarations, he had looked upon him with suspicion, and did not like the man.

There will be other circumstances of perhaps no less importance. He was taken, upon his arrest, to the Medical College, when these remains were brought up from the vault into the room above. The circumstances which transpired there are important, and will be detailed to you. The object in this was, to give him an opportunity to be present when the further search was made of his apartments, which had not then been opened. He had a private apartment, into which the police had not yet had access; and Mr. Parker, with a disposition to act with great fairness, gave him an opportunity to go and to explain anything — with the presumption that he was an innocent man — anything that he might find there. His appearance, his deportment, his remarks during that night, Gentlemen, will be in evidence before you, and they will be for you to judge of. There will also be such explanations as he or his counsel can give. That they will be important, you will judge.

There were found pantaloons, which, on examination, had spots of blood on them, and were examined by a scientific person, who will testify to it. They were marked with Dr. Webster's name. There were found slippers and towels, nearly new, — probably never used but for this purpose, — thrown into this vault, where the tide ebbed and flowed. For this vault, I should have stated, gave access and ingress to the sea, but not to any solid substance.

These towels, with his initial, and some of them having the appearance of scarcely ever having been used, were there while this privy was about to be opened. Dr. Webster was asked where the key was. Mr. Littlefield had stated that it was Dr. Webster's apartment, and Webster kept the key. It was in that that these remains were found. He was asked where the key was. He pointed to a key, and said, "There it is." It was tried, and found not to be the key. But a key was found in the prisoner's pocket, which was ascertained to be the key that fitted.

There was found in his laboratory a large number of skeleton keys, which had been filed down at the edge. They were found to be keys which would fit every door, or nearly every door, in the College.

After his arrest, he was asked in relation to that bunch of keys. He identified them himself, by inquiring whether they were the ones filed down at the edge. He replied, that they were found in the street, and that he had carried them to his room, and thought they might at some time be of use.

There was found, upon his arrest, a paper which will be put into the case, upon which I shall be glad to have any comments by his learned and ingenious counsel. It is a paper which purports to give two different versions of the interview which Dr. Parkman had with him on Friday, the 23d of November, the character of which I will not anticipate and remark upon, but it will be laid before you for your judgment.

After his arrest, and on the Monday following, he was brought before the Police Court of this city, and there, Gentlemen, either under the advice of counsel, or without the advice of counsel,— perhaps it is quite immaterial which is the fact, with reference to the effect of the fact, — he declined and waived entirely an examination, thus admitting that there was a case containing materials upon which the Grand Jury should pass, although the consequences of that proceeding were to commit him to close confinement until the Government should be called upon to try him.

Then, after his commitment, after these proceedings had in the Police Court, he wrote a note, which, according to the usages of the jail, could not be sent out without inspection by the proper officers, and which, upon examination, was addressed to a member of his family, and contained an injunction and direction to another member of his family, to keep certain papers which he had deposited, and not to open them. That, of course, suggested, as it naturally would, to the police, a suspicion that anything which he might wish to conceal might be important to the subject-matter of inquiry. And immediately a messenger was despatched to his residence, and that parcel of papers was called for. And it turned out to contain the two notes given by Dr. Webster to Dr. Parkman, with certain marks upon them, and a paper showing the indebtedness of Dr. Webster to Dr. Parkman, in April, 1849, with the interest upon that, in Dr. Webster's own hand-writing. What explanation may be drawn from that, you can call upon his counsel and me to give. If you call upon me, I must say that I cannot explain it. But that may be put in an entirely satisfactory light by his counsel.

Then, Gentlemen, the Government will probably put into this case certain testimony going to show that, in the opinion of the most expert persons in hand-writing in this city, certain letters have been written by the prisoner at the bar, between the disappearance of Dr. Parkman and his own arrest, calculated to draw off the police from the examination of the Medical College, to other places, and to divert public opinion into another channel. I state this with no other knowledge of the matter than is involved in saying that these papers have been submitted to experts with that conclusion. Its value and weight you will judge of.

But, Gentlemen, one thing is true,—that to all this mass of circumstances no explanation has, as yet, been given by the prisoner. Nothing has been vouchsafed to the public, or to the Government, by way of explanation, of any one of these facts of which I have now informed

you. The prisoner has done what he had a perfect right to do, Gentlemen, if he or his counsel thought it wise to do so. He has gone into close custody, and without so much as asking the Government to disclose the grounds of the charge against him. He has been willing to remain in prison, in the dark as to the evidence which the Government had, and waiting to give, whenever the Government called upon him for his trial, his first and final explanation. I can say, Gentlemen, with the utmost sincerity, if I can say anything with truth, that I trust he may be able to give that explanation which shall carry conviction to your minds, and to the minds of the entire civilized world; that however the pressure of these circumstances may be upon him, he can lift them off, and stand out in the bright light of day. If he succeeds in doing this, Gentlemen, no one will have more gratification in the result than I shall; and I am sure that you will share with me in that gratification.

But I think, upon the evidence the Government will be able to lay before you, you will call upon this prisoner to do something more than say the testimony is questionable on this point or upon that point. You will call upon him, with the facilities afforded to him by his counsel, to make a clear and satisfactory explanation of this mass of circumstances, and of proof, which, taken unexplained, must carry conviction to the mind of every one, that he had an agency in that sad and calamitous catastrophe — the death of one who had been his benefactor, as well as the benefactor of the institution with which he was connected.

The Grand Jury of this County, upon these facts, and others which I do not feel called upon to present to you, — for I have only given a general view of this class of facts, — the Grand Jury of the County, having this evidence before them, and other evidence which I have not stated, have charged upon Dr. Webster the wilful murder of Dr. Parkman. They have done it in four counts; and it may be proper for me to occupy a single moment of your attention in considering the question of law.

As I have stated, there are four counts in this indictment. I do not wish to embarrass you, or the counsel on the other side, by maintaining any proposition, or by seeming to maintain any proposition, which is not well founded in law. And I am perfectly free to say, that if I were left to my own unbiased judgment as a prosecuting officer, the remarks in the public papers, that the four counts are contradictory, would have been needless; for, in my own judgment, I should put the charge in the last count of the indictment. Still, Gentlemen, as a matter of technical law, if the Grand Jury believe that there was evidence that the death of Dr. Parkman was caused, as is alleged in the first count, by the stabbing of a knife, it would be taking a very presumptuous risk for a criminal pleader to have left out a count which set that forth, because, from what I have said, there is some evidence going to show that the body of Dr. Parkman was penetrated by a wound entering his heart, which would have caused him to have bled internally; and certain indications, to which we shall refer, might be found perfectly consistent with it.

Then there is some evidence, which is somewhat mysterious now, but which may, in the developments of the future, or which might have been at that time made sufficiently clear, to satisfy the Jury that he was killed by a stroke of the hammer on the head. And I shall

state, in this connection, that a sledge-hammer, which had been in that building, was on the morning of Friday seen in Dr. Webster's room, behind the door. It was taken by the janitor away from that place and put in another, and no trace of that hammer has been found, though the building has been searched from roof to foundation. It was taken to Dr. Webster's room by Dr. Webster, unless there was some person there of whom we know not, and it was removed by the janitor to another place. There has been a search for it, and it has not been found.

There is another count, to which it is not necessary to call your attention.

The last count charges that Dr. Webster, by some means or instruments, and in some mode or manner, to the Jury unknown, did deprive Dr. Parkman of life. And upon this, if you are satisfied that these mutilated remains were those of Dr. Parkman, and that he came to his death by Dr. Webster's hands, and that he could not have come to his death without the knowledge and concurrent act of Dr. Webster, — then, although you may not be able to put your hands upon a single particle of proof as to the mode by which it was accomplished, it will be no less your duty to return a verdict of guilty. This is the view taken by the Government, and the Court will explain to you whether it is a correct one.

We should be living under a code which would reproach us more than many of the barbarous rites of heathen nations can reproach them, if a man, by his scientific skill, could conceal the mode of death, and the jury, being satisfied of the act, still should find that the law was too weak to reach him, because the manner of death is not set out in the indictment. Such is not, as we maintain, the law of Massachusetts. If the Jury are satisfied that he came to his death in any manner by the hand of Dr. Webster, the prisoner at the bar, then it presents the rule of law which we understand is settled in this Commonwealth, that a voluntary killing being proved, the law deems it to be murder, unless there is evidence arising out of the case, furnished by the prisoner, that satisfies the Jury, by a preponderance of proof, that there was either such provocation that would reduce it to manslaughter, or which would reduce it to self-defence. That must be a provocation reaching to blows, and not to words merely, of however irritating and exasperating a nature.

In other words, Gentlemen, we understand the rule of law to be settled and established in this Commonwealth, and I respectfully submit, so far as a secret killing goes, by the united judgment of the Supreme Court of this Commonwealth, that if a voluntary killing by another be shown, the presumption of law is that it is murder, unless the case itself, or the evidence offered by the defendant, shows circumstances that accompanied the killing, which reduce it below murder. I do not know that it is necessary for me to add a word beyond this, upon the form in which the charge is made — the manner in which the Grand Jury have presented the charge against him.

In these several charges, you are to consider whether it is satisfactorily shown, beyond reasonable doubt, — and the nature of that we shall have occasion to consider hereafter, when you hear the remarks of the Court and the counsel, — if you are satisfied beyond a reasonable doubt that the deceased, Dr. Parkman, came to his death

by the violent hand of the prisoner at the bar, then, unless he proves something satisfactory to your minds which, in the eye of the law, will reduce it below murder, your verdict must be that this indictment is proved.

And, Gentlemen, while you will carefully, considerately, and as true men, hearken to the evidence, as the clerk has called upon you to do, in the discharge of your duty; while you will give all that attention which a patient, and careful, and assiduous regard for the interests of your Government, and of the prisoner, both shall demand of you; while you will, Gentlemen, give to him the benefit of every legal presumption, and of every legal doubt, which the law accords to him,—if, upon this whole case, when we shall have finished it, the impression has been left upon your minds that has not been removed, that he should be held responsible to the laws of the land and the violated justice of the Commonwealth, for the murder of an unoffending fellow-citizen, I trust that you will have the resolution, the inflexibility, if I may say so, to bring in your verdict accordingly.

On motion of Mr. Sohier, all the witnesses, except those of the medical profession, and the one under examination, were required to retire and remain in a room provided for them, till required to give their testimony.

Charles M. Kingsley, sworn. Was the agent of Dr. George Parkman from about May or June, 1836; had the care of his real estate. Saw Dr. Parkman generally two or three times a day; made it a point to see him as often as once a day. Lived in Blossom-street. Dr. Parkman's estates were all around me. He owned many estates in that quarter of the city. I generally called at his house, but he frequently called at mine. Dr. Parkman disappeared on Friday, the 23d day of November. I wanted to see him on business, that day, and called at his house, No. 8, Walnut-street, about three o'clock, or a little before then. Had seen him the day before; met him in Court-street, and the usual conversation passed between us; had been with him most of the day. When I called on Friday, the servant told me he had not been home to dinner. He usually dined at half past two. He was very punctual in his habits; I never before was disappointed of meeting him at the dinner hour. Had called on him at least fifty times, in fifteen years, at that hour. Not finding him, I left word where I might be found that afternoon. I had a subject of consultation with him, about which I wanted to get an answer. Not hearing from him, I called on him early the next morning; was informed that he had not returned. The family were very anxious. It was advised that no public search should be made till after the arrival of the cars at two o'clock. Was up at Dr. Parkman's house at a quarter past two o'clock, and commenced search immediately. I was told that he had left home saying that he had an engagement to meet a person, it was not known who, at half past two o'clock. I commenced the search by trying to find the person with whom he made the engagement. I commenced from the time he left, at twelve o'clock. Found the first trace of him in Bromfield-street, at half past twelve. Thence, I traced him up

Washington-street, to Court-square, and from thence, out through Cornhill-square, or Joy's Building. From Washington-street, he went through Water-street, Devonshire-street, Merchant's Exchange and Post Office; then up State-street to Court-street, Green-street, Lynde-street, and on to the corner of Vine and Blossom streets. There I traced him into a store, where I learned that he had the day before left a bag containing lettuce. The clerk requested me to take away the lettuce, and said that Dr. Parkman had been there the day before. Heard of him again in Fruit-street, which leads from Blossom to Grove street and the Medical College. Continued the search all night, and till eleven o'clock at night. The police were at work, half a dozen of them, from two o'clock on Saturday. We inquired of every one we met. Twelve or fifteen, not in the police, were directly concerned with me in the search. In the evening, the police searched a great many houses. I was with them when they searched five or six.

Advertisements were issued and rewards offered. The first advertisement was published on Saturday afternoon, in some of the evening papers. On Sunday, we searched about the city all the forenoon. In the afternoon, we heard he had been seen in East Cambridge, and went over there. The officers went there to search, at half past four. A great many were searching about the new jail lands, and in his houses, especially in some vacant houses, on Saturday. After searching in East Cambridge till ten or eleven o'clock on Monday, I came into town, and went to the Medical College, in company with officer Starkweather. We went all over the building, into all the lecture-rooms, and the dissecting-room. Starkweather, Littlefield, Dr. Ainsworth, and myself, went into Professor Webster's apartments. We knocked at his lecture-room door; it was from a quarter to half past eleven. We had been to the other places first. We found the door locked. The rest of us started to go down stairs. Littlefield said Professor Webster was there, and would open the door. He shook the door. In two minutes, perhaps, though it seemed longer to us, Webster unlocked the door. It was the door leading from the lecture-room to the front entry. Littlefield said we had come to look round, and see if any clue could be had to Dr. Parkman. Webster paid but little attention to us, and I did not hear what he said. We looked round, and went down into the lower laboratory. Webster came down behind us, but did not speak to us; or whatever conversation there was, was between him and Littlefield. After we got through the Medical College, I went back to East Cambridge.

The next day, officers Clapp, Rice and Fuller, went down with me to the Medical College, as early as ten o'clock. We knocked at Professor Webster's door, and he opened it rather sooner than he did the day before. When we first came into the building, we inquired for Littlefield, and found him, or he met us. We searched his apartments first. Littlefield was out and in the room, when we searched it. We looked into his books, and searched his pantaloons for papers. Looked into closets, into the bed, and under it. After searching Littlefield's rooms, Fuller, Rice and Littlefield, went down through the trap-door, and were gone ten or fifteen minutes.

We knocked at Dr. Webster's room, and were admitted sooner than

before. Littlefield had before said he could get in, but did not. Mr. Clapp did all the talking to Dr. Webster, and made the excuse for calling on him, that they were about to search the whole neighborhood, and wished to have it to say that they had searched the Medical College. Told Dr. Webster that they had no suspicions — had to go where they were sent — had come to search his apartments, with the rest. Dr. Webster very politely said we could look, but wished that nothing might be turned over. We walked through the lecture-room into the back room. [The witness here explained the rooms — that the lecture-room was in front, the upper laboratory immediately in the rear of it, and still in the rear of that a very narrow private room, or closet, where drugs and chemicals were kept.] Mr. Clapp made a motion to go into that small private room. Dr. Webster said, "That is the room in which I keep my valuable and dangerous articles." Mr. Clapp put his head as far as even with the door, and drew back, saying, "I will not go in to get blowed up."

We then went down into the lower laboratory. In the upper laboratory, I put my foot in the stove, to draw the ashes forward. I did it at the suggestion of Mr. Leonard Fuller, the iron-founder, who remarked to me such things as buttons were sometimes found in the ashes, when clothes had been burnt. Found nothing in the ashes like buttons. In the lower laboratory we found a bright fire burning in the furnace, with no ashes. It looked as if they had been just swept up. That was the furnace in which the bones were afterwards found. Dr. Webster was talking with Mr. Clapp, and I went out to the south-west corner of the room, where there was considerable rubbish. Saw a tea-chest, with tan and minerals in it. It was filled up full. The officers took up some of the minerals, and looked at them; recollect distinctly seeing the tea-chest with tan in it.

A question was asked about the privy. An officer — I think it was Mr. Clapp — pointed to the door, and asked what it was. Littlefield answered that it was Dr. Webster's privy, and he had the key. He, or some one else, called our attention to the other side of the room. On the way down stairs, water seemed to have been spilled. I noticed that it had n't dried any, but seemed as wet as it did the day before. All went out into the dissecting-room entry, but Dr. Webster. He remained. I don't know whether he locked the door after us. This was on Tuesday, and steady search was kept up till Friday. [The counsel for the prisoner objected to the question, why the tea-chest was not searched; but the question was allowed by the Court.]

There was no suspicion, as Mr. Clapp said, against any one connected with the Medical College, at the time these examinations were made; and that might be the reason. I had no official order to carry out the search, which was left to Mr. Clapp. Search took place on Wednesday and Thursday, but not so extensively as on the former days. I was aware that rewards were offered. I think the $1,000 reward was offered on Monday, and the $3,000 on Wednesday. The placards were posted and distributed around the city and suburbs, where I saw them myself. I went to the College again, in company with others, on Friday afternoon, at about half past three or four. Starkweather and I rang the bell at the door, when Littlefield came to us in overalls. He had been borrowing tools previously, for the pur-

pose of breaking through the wall of the vault. We talked a few minutes together, and he said enough to satisfy me what was his intention. I had heard a noise while I stood at the door, that convinced me some one was to work on the wall. He went back again to where I understood he had been so at work, and we left for the Marshal's office. I was not present when Dr. Webster was arrested. I saw him, however, that night.

The first intimation I had of the finding of Dr. Parkman's remains was at ten o'clock, when I went to the jail with Dr. Martin Gay, and others, including Mr. S. D. Parker, and two of the men employed in the prison. When I went in, Professor Webster lay on the bed in the cell, with his face downwards. He was asked if he was not able to get up, and he said he was not. After a few minutes, they lifted him up. He had hardly strength to hold up his head, and was so much excited that I thought he would not live. He was brought up stairs into the jail office, when he asked for water, but could not drink it. The tumbler was held to his face, and he bit at it. He tried to take hold of it once, and threw the water all about him. I am not aware that he hurt himself in the act of drinking. He sat in the chair alone; only once or twice requiring any support from the by-standers. He trembled, and was so much convulsed that I would not wish to see the like again. I cannot say the affection was like *delirium tremens*. I have never seen a case of that. He cried out to have word sent to his family, as they did not know where he was, and also that others should be sent for. He mentioned his family a great many times; when Mr. Parker said there was another family, who also had been in great distress for a week; that we were going to the Medical College, where there were some things he could perhaps explain. He said he had nothing to explain, and would go to the College with us. The officers helped him into the coach. He was perspiring greatly in the lock-up, and, on Mr. Parker saying he would be cold, he answered, "his extremities were freezing." I am sure that Mr. Parker was in the lock-up. I ran down after the coach to the College, and arrived just as they had got into the small laboratory up stairs. Professor Webster had an officer from the jail on each side, supporting him. When we got in, they proposed to open the inner room door, and asked for the key, which he said Clapp had taken from him when he was arrested; and the door was broken open. When they examined that room, I asked for the key of the privy. Professor Webster said it would be found on the end of the shelf. A key that was found hanging against the door would not fit. Those who went down came back and told us of this, when Mr. Webster said that some one had taken the key away. We then went down to the lower laboratory, and broke the privy door open.

Officers helped Webster down stairs. Was in the laboratory down stairs, when something was said about the bones found in the furnace. Was requested to let the bones in the furnace remain till the coroner's jury should assemble. Went from thence to the trap-door; there were parts of a body taken out and lying there; the pelvis, right thigh and right leg down to the ankle. Thought it was right thigh and leg. Dr. Webster leaned on an officer; said nothing. Did not see that he appeared any different from what he had before — was a great deal excited — stood eight or nine feet from the body. After

looking at it for a little while, we turned away, and Dr. Webster was taken to his carriage. I saw no more of him.

The next afternoon, there was found, in a tea-chest, the upper part of a body and a thigh. I was called down from the upper laboratory. They had made new discoveries. They were drawing out the tea-chest to the middle of the floor, to overturn it. They overturned it, and the thorax fell out, with the left thigh clasped in it between the ribs, which did not entirely cover it, and had made indentations upon it. A large knife — should call it a jacknife — fell out. There was a string round the body and leg, to lash them together. They were taken and washed, and given in charge of the officers. A pair of pantaloons, with blood on, was found in the closet. Dr. Charles T. Jackson was present. Dr. Jackson said they must be kept, to ascertain whether it was blood.

A saw was also found. It was a small saw, about fifteen inches long in the blade. On the handle, there were marks, as if of blood. I had occasion to require a pen, and asked Littlefield for a pen, when he took two from a desk, and one of them, he said, I could not use. It was made out of a sort of reed. I was not present when any towels were found. I was present when Dr. Lewis put the limbs together. I think it was on Monday morning. The general appearance was as that of the body of Dr. Parkman. It was tall and slim; I should say five feet ten and a half. He was very spare about the shoulders and the chest. His complexion might be called sallow. His jaw was prominent — the under part, at least. I should not want to have it understood that I swear positively to the identity of the remains with the body of Dr. Parkman. I saw some bones taken out of the furnace in the laboratory. I have heard Dr. Parkman use severe, but never profane, language. I have been influenced, in my course of conduct and actions, by hearing a statement made that Dr. Parkman had used profane language. I was one of the party who searched Professor Webster's house; but not at the time any papers were found.

Cross-examined. The morning after the arrest, I went to Prof. Webster's house, in a carriage, and joined Messrs. Clapp, Spurr, and another, at Cambridge. I ~~never went on any other occasion to his house.~~ The search was made without a warrant, on the second occasion. I was with Starkweather. Dr. Parkman used hard language when he was irritated at any act of dishonesty, that he conceived any one guilty of. He was used to call names, but not to use profane expressions. When we examined the laboratory, we took some of the minerals in our hands, and examined them through curiosity. They lay all around, in barrels, boxes, and on shelves, and in the vicinity of the tea-chest. We noted the fire in the furnace before we looked at the minerals, and in Prof. Webster's presence. I do not know the size of the furnace, and never measured it. The door of the small room wherein the chemicals were kept was open, but I did not look in. Prof. Webster let us into the laboratory, and Littlefield was with us at the time we got in. Littlefield gave no peculiar knock, that I know of. He gave two distinct strokes. It was the furnace in the lecture-room that we examined. Mr. Starkweather was with me at the time, and Dr. Ainsworth; and I think it was before we went to Dr. Webster's room, that we examined the ashes. I do not know where the key of the vault was then. Dr. Webster was in his work-

ing dress, with an apron and cap, both times I saw him, when searching the College. When we called there the first time, Littlefield left us, to get something or other. We knocked while he was gone, and were proceeding down stairs, when Littlefield came back, and said that Dr. Webster was in the room. I had only traced Dr. Parkman to the College through the medium of inquiry.

Made the first search not far from eleven o'clock; I am uncertain as to the exact time — if anything, it was a little after. Can tell very nearly what time we got through the second search, — it was from half past eleven to twenty minutes of twelve. Do not think I was all the time talking with Clapp; was looking about, to see what I could discover. Looked through everything, with the exception of the privy, and the small room. Was told that the key was hanging on a nail on those little shelves, on the west side of the small laboratory, outside the little room, and right on that little room partition. There was a hook there; do not recollect of anything on the hook; think there was no nail there, but on a nail in the front door, there was a key hanging.

Am positive that I saw tan in the tea-chest, and the minerals were on top of it. Do not know what became of the tan afterwards; did not examine it. The saw was a small hand-saw, such as butchers use to saw bones; it had a ridge on the back of it, so that it could not saw through a board. Looked at the knife; there were rusty marks on it, that looked like blood; could not say whether it was blood or not; I refer to the knife found in the tea-chest. On the knife that was found up stairs, there were marks on the handle, (very slight marks,) that were supposed to be blood.

Patrick McGowan, *sworn*. — I live with Mrs. Dr. George Parkman; lived with the Dr. before his disappearance. Remember the day of the Dr.'s disappearance; it was Friday. Remember of some one's calling at the house that morning; do not know who it was — he did not give me his address. He inquired for Dr. Parkman. It was between eight and nine o'clock, I believe; do not recollect that anybody else called at that time. Think I should not know the gentleman, if I saw him; could not swear that it was the prisoner. The doctor was passing from his office to his breakfast-room, and advanced towards the gentleman; some very slight conversation took place between them, in which the doctor said something about one o'clock. Saw the doctor about eleven o'clock, the last I saw of him, and have not seen him since. The Dr. was very punctual at his meals; never knew him to be absent but once while I lived with him, and then he came in before they had finished dinner. Am the only man-servant the Dr. kept while I was there. Went there the 26th of September, 1849. I attended the door that morning; it was my business to attend the door generally. Several persons called upon the doctor in the course of the day, besides this gentleman; cannot tell how many. I did not tell anybody that the Dr. was gone out of town, or gone out for the day.

Robert G. Shaw, *sworn*. — I am the brother-in-law of the deceased his age would have been 60 years in February. The Dr. was intimately acquainted with the defendant, but I do not know how long he had known him. The first that I knew of Dr. P.'s having lent Dr. W. money was when I told him that Dr. W. had sold his minerals to me. Last saw Dr. P. on the day that he was missing; he called

upon me on the morning of that day, between nine and ten o'clock; we walked down together as far as State-street. There was nothing unusual in his appearance; he looked to be in perfect health, and in very good spirits. Parted with him about ten, and that was the last I saw of him. Saturday morning, Mrs. Parkman sent in, and requested me to come in and see her. I went, and found her in great distress; she stated that Dr. P. had not been home since yesterday. I then proceeded directly to my brother-in-law, the Rev. Dr. Parkman, and told him that his brother had been missing since yesterday. From thence I think I went immediately down to Mr. Edward Blake, who is our nephew; our suspicions rested on a party unknown to him. Shall I relate the particulars?

Mr. Clifford. That is something in relation to an affair about a robbery from Dr. Parkman?

Mr. Shaw. Yes; we sent to Mr. Park to know if any of the witnesses on that trial were in town. Mr. Park said that he did not think they were in the city, and that he thought we were mistaken. Finding that the persons suspected were not in the city, of course we gave up the search for them.

That evening, an advertisement was published, directed by me; the reward of $3000 was offered by myself, and subsequently a reward of $1000 for the discovery of the remains. Gave a general direction to the search during the following week. First saw the remains of the Dr. the evening they were discovered; have seen them since, when they were placed together. I did see some marks which induced me to believe they were his remains; they were the hair on the breast and leg, the color of which exactly corresponded with what I had seen. I had seen the hair on his breast some time previous, but the hair on his leg I had seen in the early part of November, on an occasion — (Shall I relate the circumstance? Yes.) — that he came into my house, early in the morning, a very cold morning. I told him that I did not think he was clothed warm enough; he immediately pulled up his pantaloon-leg, and showed me his leg, that he had no drawers on. I could not identify the hair on the leg, so well as the hair on the breast. The height and size of the remains certainly corresponded with a figure like that of Dr. P. There was *nothing dissimilar* about them from what I knew of Dr. P. I did finally take charge of these remains, and had them interred as the remains of Dr. Parkman. If I had not known that Dr. Parkman was missing, I should not have thought the remains were his.

On the 18th of April, 1848, I received a note from Dr. W., asking to have a private interview with me. I replied that I would see him at my house in the morning. He came, the next day, according to my permission, and expressed to me his great embarrassment, and great want of money; he said that he expected that a sheriff would be at his house, to take his furniture, if he could not raise a certain sum of money, to pay off some pressing demands that had been standing for more than a year. He then pressed me to buy a cabinet of minerals in his possession. I told him I did not want them. He told me that perhaps at some future time I might want them, to make a donation. I said I had no such purpose in view. He told me the sum he wanted was $1200; and he pressed me so hard with regard to his family, and other reasons that worked upon my feelings, that finally, after reflection, I thought I would relieve him. I asked

how much he required immediately. He said, $600. I told him that I had not the money, but that if he could get my note discounted at any of the banks, I would purchase his minerals. In the course of the afternoon, he came into my counting-room, and said he had succeeded with a bank — the Charles River Bank, I believe. There is the receipt I received from him. [Here the Court examined the receipt.] Afterwards he brought me a catalogue and a bill of sale of his minerals. I did not examine them particularly. On the 6th of January, I gave him $200 in check, and on the 31st August my note for the balance. He then said that there were some of the minerals in the Medical College that he should like to keep. I told him that if he would pay the interest on the money I had advanced, he was at liberty to keep them, and there the matter rested; he has paid me no interest since, and I have not called upon him for any. Subsequently, I was walking with Dr. P., and we met Dr. W. passing. I asked Dr. P., What salary has Dr. W. at Cambridge? He answered, $1200. I said that was not enough, for he has come to me to sell his minerals. Said Dr. P., They are not his to sell; and he took me to his house, and showed me the mortgage. He then said he would see Dr. W., and give him a piece of his mind. [This evidence was objected to.] Dr. P. left a wife and ~~three~~ children — ~~two~~ sons and a daughter. His daughter had been an invalid for several years — so much so that he did not expect she would recover. He was always in the habit of buying delicacies as a relish for her palate. He was more than punctual, — he was the most punctual man I ever saw. I do not think anything could induce him to go from home if he could avoid it.

The Court here adjourned.

SECOND DAY. — *Wednesday, March* 20.

The Jury being engaged in examining the Medical College, according to the direction of the Court, did not come in till twenty minutes to ten o'clock. The counsel for the Commonwealth produced and exhibited full plans of the various floors of the Medical College, and a wooden model of the whole building, capable of being dissected so as expose all the floors and partitions. These models and plans were shown to the Court and Jury, and used in illustrating the subsequent testimony. (See Appendix A.)

Francis Tukey, *sworn.* — I am City Marshal; was informed of the disappearance of Dr. Parkman on the forenoon of Saturday, November 24, by Mr. Blake and Mr. R. G. Shaw, about ten o'clock. Commenced search immediately at the west end of the city. I ordered the West End police to inspect and make inquiry around the premises of Dr. Parkman in the West End. They could get no information concerning him, only that he had been seen in the neighborhood on Friday. This information was given to Dr. Parkman's friends by me, and I also advised them to advertise his disappearance, which they did; the commission to do so having been given to the reporter for the *Journal*, who was in my office at the time.

[The Court thought it unnecessary to go into proof of the fact that Dr. Parkman had disappeared.]

Witness was requested to state, in general terms, about the search which was made. Answer: It was as general and thorough as the means at the disposal of the city would allow.

Men were sent in all directions for 50 or 60 miles, on all the railroads — to all the towns on the coast, including those on both sides of the Cape.

We searched over land and water, and under water. We published and circulated 28,000 copies of four handbills. The first merely stated that Dr. Parkman was missing. It was published on Sunday, the 25th. The second, published on Monday, the 26th, offered a reward of $3000 for the discovery of Dr. Parkman.

The third offered a reward of $100 for the recovery of a watch, without saying whose watch it was. It was a watch that had been in the possession of Dr. Parkman.

The fourth was published Nov. 28th, and offered a reward of $1000 for the discovery of Dr. Parkman's remains. I first heard of the discovery of remains at the Medical College on Friday, Nov. 30, in the afternoon. Went immediately to the Medical College. We went into the cellar room of the latter, and thence down a trap. Littlefield, Trenholm, Clapp, and I, went down together. The trap-door is on the same level with Mr. Littlefield's apartment, in what might be called the basement of the building. We passed a good distance below, and over an uneven surface, for about 60 feet, to a corner. In this corner there was a cross wall, in which there was a hole made about 18 inches square; the mortar and bricks lay around, as if freshly broken down from the wall.

When we came up to the corner where the hole was cut in the wall, we got a light, and I took the lamp and reached into the hole, and looked about. I saw what I thought pieces of flesh. The water from a sink was running and spattering about. When all had looked in who wished, I asked Trenholm and Littlefield to go in and pass out what they could find. We got a board, and they passed out, to the hands of Mr. Clapp, three parts of a body. I asked, as a matter of form, of Dr. Bigelow, if these were parts of a human body; and he said yes. I then inquired whether it was part of one which had been prepared for dissection. He said it was not. I asked Littlefield whether there was any entrance to the vault below, except through the privy hole, and the aperture in the wall, at which we stood. He replied that there was not. We brought the remains out, and placed them in the apartments above, on the same floor with the laboratory. I went into another room, while the men searched the laboratory and lecture-room. I afterwards went up stairs, (having been told by the men that they had found something.) I then went into the lower laboratory, and the officers with me. I stopped near the furnace. I saw officer Clapp with something like bones, which I ordered to be let alone until a commissioner of the Court could take them into his charge. I then sent for Professor Webster, and in the mean time went back to the house of Robert G. Shaw.

[Mr. Tukey here opened a box which he had had in his custody since the contents were found. It contained miscellaneous matters; among them, parts of bones calcined, and stuck among *slag*, or the vitrified remains of coal or other mineral substances, which had been burnt. A knife, with a silver hilt and sheath, was also among the con-

tents. The blade of the knife might be about ten inches long, and sharp on both edges, with a fine, tapering point.]

An article was also found that seemed like some teeth. After these things had been found, I left the College, and did not return that night.

Cross-examination. I proposed the printing of a bill on Saturday. I think I wrote the first one on Saturday night, when it was submitted to the family, altered, and then published. The next in order I also advised to be written, and did write it myself, I think. One was signed by Mr. Robert G. Shaw, and another by me. I should not think the hole under the privy above 18 inches wide. The breach in the wall was half way from the floor to the ground, and a perpendicular line from the hole above would drop within 18 inches of its inward surface. One part of the remains lay near the wall, and the others separated a little from it. They were not exactly below the hole above the privy, and I cannot say how far off they might be. I am not aware of the relative positions of the different parts. The ground rose to the wall, and the remains lay on the side of the plane formed by the rise of the ground. It was the north wall of the privy.

Direct resumed. The space occupied as a privy vault was a large one, and a curious looking place. I cannot say whether the tide flows in and out or no. I think that no solid substance could float out seaward. The wall inside I did not examine, to see whether it was rough or smooth. I did not go inside at all.

3 CALVIN G. MOORE, *sworn.* — I reside at 24, Bridge-street. I resided there on 23d November last. Am not a tenant. I saw Dr. Parkman in Paul Holland's store, at the corner of Vine and Blossom streets. I went in there to purchase, and while I was there he came in; this was between one and two o'clock. He came in from Vine-street; and the time could not have been less than ~~ten~~ minutes to two. It was on Friday; and on Saturday the police came and asked me if I had been in the store, when I said I had; and I thought over the time then, and arrived at the conclusion I have stated. Dr. Parkman came in, passed the time of the day, and inquired about some sugar. He asked for something to put it in, and Mr. Holland pointed to a bucket for that purpose. He was then told to put the sugar up. I noticed that he made two or three weighings before he filled the bucket; meantime the Dr. was asking about some butter. He subsequently pointed out a part to be cut, which was taken off and weighed. I had some talk with him about the weather, and he said we could not find fault with it; and that was all I can recollect. He might have been ~~twenty-five~~ minutes in the store, perhaps less. He went out and away, by Blossom-street. He seemed to hesitate as he went out; and I thought he bent over the counter and made some remark to Mr. Holland, which I did not overhear. I did not observe the direction in which he went beyond the door.

Cross-examination. I was not in business at the time. My house was across the street from the store, quite a short distance. I made a purchase at that time, and Mr. Holland had pay for what I got before I left the store. I bought some butter off the same piece the Dr. had his from. The transaction was in part delayed through Dr. Parkman's coming into the store. I dined that day not far from half

past twelve. From that time, and my subsequent movements, not being in a hurry, I suppose that I must have gone out about twenty minutes past one o'clock, — not later. I do not take so long to have dinner, when I am in a hurry. I formed my impression concerning the time next day. I was examined on the coroner's inquest, and do not know whether I said I left my house at a quarter or twenty minutes past [redacted]. I did not write down any statement relative to this matter, nor did any one do anything of that kind for me, that I know of. On the afternoon of Saturday, Mr. Kingsley came to me, and made inquiries relating to Dr. Parkman. I don't recollect saying anything to him, but that I had seen him.

It was after Mr. Kingsley left me that I considered over the time. I do not remember whether or not I might have said that I had or had not seen Dr. Parkman that day, before I spoke to Mr. Kingsley on the subject.

MARTHA MOORE, *sworn.* — I am wife to the last witness. I knew Dr. Parkman by sight; but I did not see him on Friday, 23d November last. I told my son George to go to school, that day, ten minutes before two. He was then on the corner of Fruit and Bridge streets, on the sidewalk, near a truck. I spoke to him from an open window. I had just looked at the clock before I spoke to my son to go to school. My attention was called to this fact, when inquiry was made for Dr. Parkman.

Cross-examination. My son attends school in Pinckney-street. It commences in the afternoon at two o'clock. I cannot recollect many occasions of warning my son to go to school. It is not often; and when I may have occasion, it is only such natural occasion as any mother may have. I am sure it was within a week that my attention was called to time. It was called to my recollection by my son, within a day or two, when he said he had seen Dr. Parkman. It might have been the next day, or it might have been two or three days. It was in the house we talked over the matter; and I cannot say whether any one was present. I know it was Friday, the 23d day of November, and I know that I looked out of the window on that day. I am not aware who I spoke to first on this subject. I told it to the sheriff. I cannot recollect any other transaction that day.

GEORGE M. MOORE, *sworn.* — I am twelve years of age. I knew Dr. Parkman, and last saw him on Friday, 23d November. I heard of his being missing on Saturday, when I recollected to have seen him in Fruit-street. I was standing alongside a team which had got stuck in the mud in Fruit-street, when Dr. Parkman passed down towards Grove-street.

[The locality was pointed out on a map, and the attention of the jury directed towards it. The boy pointed out his position, and that of the team, on the street, at the moment Dr. Parkman passed.]

This was about ten minutes before two. My mother called me, and said I should go to school, as that was the time. Another boy, named Dwight Prouty, was with me, and I said, "There goes Dr. Parkman!" The truckman was not whipping his horses. We went to the Phillips School, which was not above a quarter of a mile, and got there just before it commenced. Two o'clock is the usual hour of commencing school.

Cross-examination. I don't recollect seeing Dr. Parkman on any

particular day before that Friday, when he passed close by me. Next day I told my mother I had seen him.

By the Court. I heard on Saturday that Dr. Parkman had been missing.

DWIGHT PROUTY, JR., *sworn.* — I am thirteen years of age. I go to the Phillips School, in Pinckney-street. I last saw Dr. Parkman on Nov. 23d, Friday, at ten minutes to two. I go to the school at two; and that day, when I left where I live, at number 4, Bridge-street, it wanted a quarter to two. I looked at the clock as I left. I came into Fruit-street, and saw George Moore, and a truck team in the mud. I also saw Dr. Parkman go along by Grove-street. I think, but am not sure, that one of the boys said, "There goes Dr. Parkman." I had seen him many times before that day. I could not describe his dress that day. I last saw him when he passed on the same side of the street. George Moore's mother looked out of the window at the time, and called out it was ten minutes from two; when we left, and got to school in time. We did not stop on the way, that I can recollect of. Dr. Parkman had passed just as we left the place.

Cross-examination. The truck was on the corner of Fruit and Bridge streets, just as you go round, and the horses heading towards the College.

ELIAS FULLER, *sworn.* — I carry on the iron foundery trade near the Medical College. My counting-room is on North Grove-street, at the corner on the west side, from whence we can look down Fruit-street. It is about seventy-five feet from the Medical College. I knew Dr. Parkman, and saw him frequently on business. He had a claim on the land on which my foundery is built. I saw him on Friday, 23d November, 1849, between half past one and two o'clock, in front of my house, in North Grove-street, where I was waiting for Joseph Annis, whom I had an appointment to meet. I saw Dr. Parkman some time — I think, a few minutes — before two o'clock. I had looked at my watch, and had also asked my brother about the time, before Dr. Parkman passed. The first answer was, that it was twenty minutes to two o'clock. I cannot recall all that transpired intermediately; but I feel almost certain that Dr. Parkman passed in ten minutes after. We waited a very few minutes after he passed, when we went off with Mr. Annis. Dr. Parkman went towards the Medical College. I saw the team in the mud that same day. It belonged to Marsh & Banks. My brother is in our warehouse. Dr. Parkman bowed as he passed, and we returned his salute. With reference to the Medical College, the last time I saw Dr. Parkman, he crossed the street towards me, and thence went directly towards it. I do not know that I looked after him.

Cross-examination. He passed quietly. He had on a dark frock coat, and dark clothing generally.

ALBERT FULLER, *sworn,* (a brother of the former witness.) — I knew the late Dr. Parkman, and had met him, occasionally, for two years. I last saw him on the 23d of last November, as he crossed Grove-street towards our building, and passed towards the Medical College I was at the door, weighing castings, at the time. He bowed to my brother as he went past. This was close to our counting-room. I saw him when he was within forty or fifty feet of the College, and after he had passed us. The time of the day I cannot tell to a

minute, but it was nearer to two than half-past one o'clock. I was on the spot all that afternoon until night, at my work, and I never saw Dr. Parkman afterwards. My position was such that no one could pass in Fruit-street, without my seeing him. I was at work in the building, but right in front of the door.

[The position of Mr. Fuller's house was here pointed out on the map to the Jury, and that of the relative streets and outlets to and from the College.]

The time was spoken of that day, previous to the Dr.'s passing, and we fixed it next day, after he was missing. I knew ~~where~~ Dr. Webster ~~resided~~; and remember his coming into our counting-room and signing a check to Mr. Cummings, blacksmith.

By the Court. I heard of Dr. Parkman's disappearance next day; it was the subject of common conversation.

By the Attorney General. Mr. Littlefield came to my house on the Friday after Dr. Parkman's disappearance, and borrowed a chisel from me. My brother lent him a bar. I think the remains were found on the same evening. The implements were borrowed in the afternoon.

[The question regarding what purpose the tools were borrowed for, was ruled inadmissible.]

The tools were borrowed at different times.

[Some conversation again occurred, concerning the ruling above, which was adhered to by the Court.]

My brother lent Mr. Littlefield a hammer and a bar that day. Mr. Kingsley called on me the same day. I do not remember Mr. Trenholm coming also with him. I did not go to the Medical College; nor did my own knowledge teach me what was going on. Dr. Parkman was a very punctual man with us, in all our dealings with him. Dr. Webster, when he came into our counting-room to sign the check, said, "The papers stated that nothing had been yet heard regarding Dr. Parkman."

Cross-examination. I was weighing iron all that day, and could see both sides of the street pavement from where I was at work, which was at the side of the door. I repeat that it was nearer two than one o'clock.

By the Foreman of the Jury. I had to stoop some while at work; but never was in any position that would prevent my seeing the whole street for any length of time.

LEONARD FULLER, *sworn.*—I am brother to the two last witnesses, and work in the foundery along with them. Mr. Littlefield borrowed a hammer and a bar from me on the Friday after Dr. Parkman's disappearance, and the same day on which the remains were found. He came after dinner-time, and got the articles. He also had a turn drill. The bar was about four feet long, and steeled at the point. After having it away for about an hour and a half, he came back and wanted a hammer and a chisel. He had off his coat and jacket, and was sweaty. His clothes were dirty. My brother Albert gave him a chisel, and I went and found him a bar, which he took, and went to the College. I saw no more of him that night. I knew Dr. Parkman, and saw him on Nov. 23d, but cannot say positively at what time. He was in the habit of coming into our counting-room, almost every day, for the last three years. I saw him on the 23d, in the fore part of the day, but do not know exactly when.

Cross-examination. I saw him in Court-street, but cannot say, particularly, what dress he had on. I was in my chaise at the time I saw him.

PAUL HOLLAND, *sworn.* — Am a grocer; kept formerly at the corner of Vine and Blossom streets. Saw Dr. Parkman Friday, Nov. 23; he came into my store between 1 and 2 o'clock; thinks it was about 1½. He staid there about 15 minutes; he bought 32 lbs. of crushed sugar, and 6 lbs of butter. Brought in a paper bag; asked permission to leave it for a few moments, as he was about going out. I promised to send up the things purchased, in the afternoon; he said any time would do. The bag remained till evening; I opened it; it contained lettuce. Heard of Dr. Parkman being missing, next day, from Mr. Kingsley. Mr. Calvin G. Moore was in the store when Dr. Parkman was there. The lettuce was there when Mr. Kingsley called, the next day; it was not removed. Clerk was gone to dinner; he dines at 1 o'clock. Came back 10 or 15 minutes after Dr. Parkman left. Dr. Parkman was not in a hurry.

Cross-examination. My clerk resided in May-street. Dr. Parkman did not appear to be in a hurry when he called. He had a black coat, pants, and satin vest on, with a black cravat and hat, so far as I can recollect.

JABEZ PRATT, (one of the Coroners of the County,) *sworn.* — Was called upon in the course of Friday, Nov. 30, by officer Spurr, between 9 and 10 o'clock, to view the remains. Went to the house of S. D. Parker, Mount Vernon-street; thence with him to the jail in Leverett-street, with Dr. Martin Gay and one or two others. Saw Dr. Webster in the cell beneath the jail office; a warrant was in his hands for the arrest of Dr. Webster; Dr. Webster was lying upon his face, apparently in great distress. Desired him to be calm, and requested him to get up. He said he was unable to get up; he was agitated, and trembled all over; he exclaimed, "What will become of my poor family!" He was afterwards lifted up, and assisted up stairs; don't remember whether he perspired in the lock-up. Was nearly helpless, and could not use his limbs; was seated on a chair in the office; some person offered him water, at his request; he was so agitated he could not drink; they put the tumbler to his mouth; he thrust it from him. Mr. Parker had directed, before we went down, that no person should converse with Dr. Webster on the subject of his arrest. Mr. Parker conversed with him; he stated to Dr. Webster that there had been some discoveries made at the Medical College, and they had come there to see if he was willing to go down and make any explanations he might please. Don't remember the answer, but he consented to go; Leighton, one of the keepers of the jail, and myself, rode in the same carriage with Dr. Webster; saw perspiration on him when sitting in the chair in the jail office, not before; complained of being cold on arriving at the College; he was helped up the stairs. Don't remember the conversation in the carriage particularly; remember that he complained of the manner in which he had been taken from his family. Entered the College by the front steps; went in to the lecture-room of Dr. Webster; thinks Cummings and Leighton were the officers who had hold of Dr. Webster; went from the lecture-room to the laboratory in the rear; thinks the Doctor was first, and they had to break it open. After going into the back room, some person inquired

for the key to the small room at the back of it. Dr. Webster replied that was his private room, where he prepared his lectures and kept dangerous things; he had not the key; Mr. Clapp had taken all his keys from him. The door was broken open; there was a coat there, which he used when he lectured; there were drawers, or closets, on the opposite side. Either they stuck, or were locked; some were broken open. Dr. Webster objected to its being done; said they contained only some demijohns and bottles. Such was the fact; discovered nothing there of importance; then went down stairs.

There was an inquiry made for the key of the privy. Dr. Webster said it was hanging on a nail; don't remember whether this was made before or after going down; did not examine the building particularly, not thinking it my duty to do so. The key was applied to the door of the privy, and did not fit; the door was broken by my direction, and the seats were torn up, not both at the same time; some person inquired where was the chimney that was hot; it was pointed out, and the furnace. Some person went to the furnace, and took off the cover, taking out something; I directed them to let it stay as it was; some one had hold of Dr. Webster by the arm all the time; he appeared different from any man I ever saw before. He called for water; when the water was offered him, he would seem to snap at it with his teeth, and push it from him; was more excited in the lower laboratory than up stairs.

Mr. Andrews, the jailer, came into the laboratory while we were there; we went out of the laboratory into an entry or cellar, where a trap-door was opened. Mr. Clapp and Mr. Littlefield went down, and requested me to. Went down, going on hands and knees; the highest place was not more than four feet. The remains were brought up; Dr. Webster was very much agitated; don't recollect distinctly how Dr. Webster appeared then. Did not go back to the jail with Dr. Webster; the remains were put into a box in a cool place, and officers left in charge. Next day, summoned a Jury of Inquest, at four o'clock; I took out the contents of the furnace myself. It was on Saturday; cannot remember whether it was before four o'clock, or after; police officers aided in taking out the contents of the furnace, but took out nearly all myself; directed the officers to pick out the bones and pieces of metal. There were bones, and pieces of metal that looked like pewter or lead; also some pieces that looked like gold; there was much ashes on top; found considerable pieces of cinders sticking to the brick, which I knocked of with a poker.

Court adjourned to half past three.

AFTERNOON.

The examination of Coroner Pratt, *resumed.* — There was a piece of jaw found toward the bottom of the furnace; it was artificial; it was one piece. I caused it to be put in the hands of Dr. Winslow Lewis, Jr. Found it about two thirds of the way from the top to the bottom; the depth of the contents of the furnace was about one foot. The bones were picked out of the ashes; were preserved at that time; they were delivered to the chemists and medical men, to take such parts as they chose to examine. Sent for Dr. Jeffries Wyman; I do not know what portion of the bones he took; I had no further charge of the laboratory. The ribs and some of the

bones were put in a box in the privy, Friday night, and the door nailed up; they were placed there as the coolest and safest place. Now remember that I took out the contents before the inquest; don't remember what officers were left in charge; don't remember what other bones I found, beside the artificial jaw. Have had in my custody a tin box, which came from the store of Mr. Waterman. A large bunch of teeth fell through the grate, in removing the contents of the furnace; an officer, Trenholm, picked them up.

[The tin box was here shown to the Jury. It was about two feet long, by twelve inches wide, and twelve deep, with a tin cover which could be soldered to a rim.]

Cross-examination. The bones were mixed with the cinders adhering to the furnace. Noticed the bones in the cinders at the time of breaking them off. Officers Fuller, Rice and Trenholm, were among those who had charge of the building, Friday night. When I said bunch of teeth, I meant the block; there were two or three single teeth found.

Dr. Winslow Lewis, Jr., *sworn.* — Called to the Medical College on Saturday, by Coroner Pratt; Drs. Martin Gay and Charles T. Jackson were with me. Arrived there at three o'clock. I called on Drs. Geo. Gay, J. W. Stone, and Jeffries Wyman, to assist me. Dr. Wyman took charge of the bones found, and certain articles that had blood on them. Drs. Gay, Stone, and myself, prepared a report on the five pieces of a body that were found in the privy; it was reduced to writing, signed, and sworn to.

A very broad, discolored and hardened stripe extended from the left shoulder to the hips; the rest of the skin was of a natural appearance, except a slight greenness at the arm-pit. There was a ragged perforation under the left nipple. There was nothing which was unlike what I should expect to find in the body of Dr. Geo. Parkman; they were not apparently portions of an anatomical subject for dissection. There was nothing in the manner in which the parts were separated to indicate that it was a subject. There was no preservative fluid in the vessels, as there would have been if it was a subject. There could not be the least doubt that all the five pieces belonged to the same body. A mass of mineral teeth was given to me by Coroner Pratt; carried them to my home and kept them all night, as Dr. Keep was absent from the city; handed them to Dr. Keep the next day.

[The document above referred to was here read, and the terms explained to the Court and Jury. The paper is as follows:]

REPORT OF THE MEDICAL COMMITTEE ON THE INVESTIGATION OF THE REMAINS.

Drs. Winslow Lewis, Jr., George H. Gay, and James W. Stone, being severally sworn, on oath depose as follows: —

Having been directed to make a *post mortem* examination, at the Boston Medical College, in North Grove-street, attended to that duty December 2d, 1849, at ten o'clock, A. M., and examined five portions of a human subject, viz: a thorax, a pelvis, two thighs and a left leg. The thorax and left thigh were discolored, apparently with tan and some caustic substance. The three remaining ones were white, fair, and appeared as if soaked in water. The cartilage on the head of the left thigh-bone was colored black. The following is a description of the five portions separately: —

I. *Remains of Thorax*, and parts attached to it, which consisted of all the bones, except the sternum. Fracture of the fifth right rib, apparently recent, and about four inches from division between ribs and sternum.

Both clavicles and scapulæ present; clavicles large. Both lungs present, but collapsed. Left lung had pleural adhesions. Structure of both lungs apparently healthy.

Anterior thoracic muscles cut up from the ribs, about six inches from the centre, on each side, and with the skin thrown one side.

Posterior portion of integuments from the left scapula to the lumbar vertebræ, of a dark mahogany color, and hardened. Remaining portion of integuments generally of a natural appearance, except a little greenness under the right axilla, probably from commencing decomposition, and some blueness under the left axilla, leaving the skin soft and easily broken, through artificial action exerted upon the hair and skin, as far forward as the section in the median line.

An opening, slightly ragged, about one and a half inches in length, under the left nipple, between the sixth and seventh ribs, extending into the cavity of the chest.

Remains of thoracic aorta and thoracic œsophagus present. Heart and diaphragm wanting. Trachea divided through the cricoid cartilage. Spleen contracted, externally granulated and internally red. Left kidney in its natural position, and contracted. No liver, right kidney, pancreas, stomach or intestines.

Nota Bene. The right kidney, much contracted and discolored, was discovered on the next day, and given to us.

Sixteen vertebræ present, consisting of three lumbar, twelve dorsal, and the greater portion of the seventh cervical, which appeared to have been sawn through the upper part. Small quantity of long, grayish hair on the front of the chest. Some stained dark grayish hair on the back.

Periosteum removed from the front part of several left ribs. Both arms severed in a very irregular and unscientific manner.

II. *Pelvic portion* consisted of the bones of pelvis, two of the inferior lumbar vertebræ, all the integuments, muscles, organs of generation and the pelvic viscera generally. All of the intestines remaining was about six inches of the rectum, through the anterior and external portions of which a section had been made, and the mucous coat separated from it four or five inches throughout the whole circumference, but not cut off at the lower end. Hair upon this portion of a sandy gray. Both thighs severed from it in a very irregular manner. Integuments divided down to the pubis in the median line. On placing the pelvic portion in apposition with the thoracic, the third and fourth lumbar vertebræ corresponded precisely. The spinous process of the third lumbar vertebra, with a portion of the transverse processes of the same, was absent from the thoracic portion, but was found attached to the fourth lumbar vertebra, which was on the pelvic portion.

III. *Right Thigh*, on being placed in apposition with the pelvic portion, the bones, muscles and skin, corresponded perfectly. Good muscular development, with but little of fatty matter. Patella attached. Some ossification of femoral artery.

IV. *Left Thigh* had a string about two and a half feet long, tied round just above the condyle, leaving loose ends. Patella attached.

On being placed in apposition with the pelvis, the bones corresponded, but some portions of the skin and flesh appeared to have been removed, or contracted from artificial means. On the anterior surface of the thigh, and somewhat on other parts, there were appearances of the action of fire, or some caustic matter.

V. *Left Leg* of natural appearance, fair size, and on being placed in apposition with the left thigh, the articulation corresponded.

Measurements.

	Inches.	Inches.
Thoracic portion, length		17½
" " below axilla, circumference	30	
Pelvic " length		9½
" " circumference below crest of ileum	30½	
Both thighs (of the same length)		18
" " circumference of largest part of each	18½	
Left leg, length to the outer malleolus		16
" " circumference of largest part	12½	
Total		61
Deduct distance from bottom of pelvis to top of acetabulum		3½
		57½
All the parts being placed in apposition, the distance from the top of seventh vertical vetebra to the outer malleolus		57½
Difference		½
Total length of parts discovered		57½
Distance from sole of foot to the outer malleolus on another subject		3
Distance from top of head to base of sixth cervical vertebra		10
Total height — 5ft. 10½ inches, or		70½

The foregoing described portions appeared to belong to a person of between fifty and sixty years of age; the muscular system was well developed, and there was but very little adipose matter.

WINSLOW LEWIS, JR.,
GEORGE H. GAY,
JAMES W. STONE.

Attest,
J. L. ANDREWS.

Cross-examination of DR. WINSLOW LEWIS, JR. — [The witness explained the anatomical terms.] Had been acquainted with Dr. Parkman about thirty years — quite intimate. It would not spontaneously have occurred to my mind that it was Dr. Parkman, if I had not known he was missing. Could determine the height of the person within half an inch, to a certainty. The perforation under the left nipple was much affected by some chemical agency. Discovered no marks of a knife on the ribs. A body of the size of Dr. Parkman's would contain about two gallons of blood. About two quarts of blood, or fluid, might be found in the cavities of a body of this size after death. Could not say how long it would take to burn up a head; I think it could be consumed in two hours, but cannot state that with any accuracy; it would depend upon the quantity of fuel. Could not determine the precise age of that body from the remains. There was more muscular development in the lower extremities than I should have expected in a body like that in other respects.

Direct resumed. If a person were wounded, as by the perforation

in that thorax, he would, probably, have bled more internally than externally; a body ceases to bleed very soon after death, except from the veins.

Dr. James W. Stone, *sworn.*—I concur in the report that was drawn up and signed by Drs. Lewis, Gay and myself, and which has been read. The hair on the back of the body examined was much more, and longer, than usual, and of a sandy gray color. The muscles of the lower extremity were more developed than one would naturally expect from the general size of the body, indicating that the individual had been accustomed to much exercise in walking. In front, on the left side, the skin was burnt, and the hair singed, so that its length could not be determined. On the other side, in front, the skin was not burnt, but decomposition had commenced near the right arm-pit. Judging from the skin, hair, and general appearance of the remains, the body belonged to a person from fifty to sixty years of age. The amount of ossification of the arteries would seem to indicate that the individual was nearly or quite sixty years of age. There was nothing in the light color of the skin, the sandy gray hair, the muscular development of the lower extremities, or the apparent age, which would conflict with the idea that it was the body of Dr. Parkman; yet, had I not known that Dr. Parkman was missing, I should not have suspected that these remains were portions of his body.

I have been well acquainted with Dr. Parkman for five or six years; he has visited me several times, and I have often been to see him. He was a great and a fast walker.

My impression is, that the individual who separated the remains had some anatomical skill. It is difficult for a person who has never done it to remove the *sternum*, or breast-bone. I have seen good physicians, in a *post-mortem* examination, even when there was no ossification of the cartilages, give up the attempt to separate the *sternum* from the first rib and collar-bone, and break it off, leaving the upper part of the breast-bone unremoved. In this case, the incision through the skin and muscles was made, as usual, in the median line from the neck downwards, and the *sternum* properly removed, by separating it from the *clavicle*, or collar-bone, and by dividing the cartilages close to the ribs. The divisions at the joints were rightly made, though somewhat irregularly.

There was but little appearance of these remains having been parts of a subject for dissection. That which looked more like dissection than any other part was mentioned in our report; viz: an incision through the anterior portion of the external coats of the last six inches of the intestine, and a separation of them from the mucous coat. In preparing bodies for dissection, sometimes one injection into the arteries only is made; at other times, two or more. The first injection is made in all the subjects for antiseptic purposes. It is fluid, and usually consists of an arsenical solution, one of the chloride of zinc, or some similar preservative substance. This fluid is absorbed, so that it is difficult to recognize it, except by chemical tests. The second injection is solid, and is usually of glue or wax, so as to dissect for the arteries. That can be easily distinguished. There was in these remains no solid injection.

Cross-examination. We examined the aperture between the ribs, to ascertain if it had been caused by a knife, as it was suggested that

this might have been the case. In this place, the skin was much softer than usual, from the action of fire, and the finger might easily have been pushed through the skin and muscles. The edges of the aperture were rough, as if it had been made by a stick. There was *no* mark produced by the cut of a knife upon the ribs. A day or two after, I heard that there was such a mark, but at the time of our regular examination, on Sunday, Dec. 2, we could find nothing of the kind.

Direct examination resumed. There was no mark in this opening which had the appearance of having been made with a knife. The opening extended not only through the skin and external muscles, but also through the muscles between the ribs, and through the lining membrane into the cavity of the chest. The membrane and muscles between the ribs were perforated in other places, but nowhere with such regularity as would indicate that this had been done with a knife. I do not think that all the *periosteum* remained on the edges of the ribs.

Dr. George H. Gay, *sworn.* — I signed the statement that has been read, and agree to it. I saw the remains at the Medical College, and conceived that some anatomical knowledge had been exhibited in their dissection. The separation of the head from the spinal column is not an easy act. They do not use a saw to do it, except when they wish to throw the parts away. A person without anatomical knowledge could not readily cut the head off. It is not easy to separate the *sternum* from the *clavicle*. There was no indication, in the process of removing the thigh, showing that degree of anatomical exactness that would accompany the operation on the living subject. There are several methods of taking the thigh off from the pelvis. The hole in the chest I thought might be made by the pressure of the ribs, or the end of a cane, at the time it was removed from the tea-chest. I saw the remains on Saturday, but did not examine them so closely as I did on Sunday. I made an examination of the puncture through the ribs into the cavity of the thorax, and through the membrane internally, but saw no marks of a cut upon the ribs. I observed nothing more than was stated by Dr. Stone.

Cross-examined. We examined merely to see the external and internal appearance of the perforation; I thought it previously done with a stick, and saw nothing to make me change my mind. I examined the skin outside, and the membrane inside.

Direct examination resumed. It was on Saturday afternoon I first saw the body; the officer was poking off the tan from the part with his cane, with which I thought the perforation was made.

Dr. Woodbridge Strong, *sworn.* — I have been in practice since 1820, in Boston. While I was a student of medicine, I accepted every opportunity I had to practise dissection. I have, since I came to Boston, dissected many a body, and meant always to be thorough in my work. I have been at different institutions also, and am more disposed towards surgery than to anything else. I have been obliged, sometimes, to burn some remains. Once I had a pirate given to me by the Marshal, when I was living in Cornhill. It was very warm weather. I wanted the bones, and desired to get the flesh destroyed. I had a common fire-place. The body was not a large one, but muscular, and had some fat. I made a fire of wood and flesh, and kept poking, and keeping up a roaring fire. It burned all night, and up to three in

the morning, and the mass was not half burned up. Coal is bad to burn it with; but wood is good; though little flesh can be burned at a time. Any dry wood, such as pitch pine, would do very well to burn. The smell is difficult to allay, and the operator would be apt to be found out through it.

I have known Dr. Parkman ever since I have been in the city; a part of the time as a neighbor, when I saw him almost every day. I last saw him on the day he disappeared, in Beacon-street, at half past twelve, or not far from that. I was driving down Belknap-street, when I saw the Dr. on the other side of Beacon-street, whence he turned into the common. He was going towards the west at the time. I was at the Medical College on Wednesday after I last saw Dr. Parkman, and also on Tuesday. On one day of my visit, I saw parts of a body on a board. [Witness described the remains as others had done.] The dissection of the breast was done in the usual manner of anatomists; and no one who had not been in the habit of seeing dissections could have done the thing in the way it was.

The muscles between the bones were cut through as far as four inches, — the distance the flesh was taken from off the ribs. The skin at the puncture was taken away; and some one said, when I inquired about its being a stab, that it was not. I noted that the aperture seemed as if a stab had caused it when the muscle was tight. It takes a very sharp knife to make a clean cut, when the skin is not tight. I saw a perfectly clean cut made, so as nearly to graze the rib, which I thought must have been given when the body was alive. I thought it might have been the means of death. If a person was stabbed to the heart, something would depend on the position of the wound, as to the hemorrhage. In this case, it would have been internal. In the case of these remains, the parts were peculiarly bloodless. They seemed as much so as meat that is seen in the shambles. I observed the hair to be gray, or whitish. The skin had lost the elasticity belonging to the young subject, and its thickness denoted age. I judged from the remains, from the hair, and condition of the cartilages, that the person must have been between 50 and 60. The body was unusual in its formation, from its narrowness across the shoulders, in proportion to the pelvis, and the tenuity in the upper part. It corresponded, in these respects, to the late Dr. Parkman's general appearance when alive. He had a peculiar appearance. There was nothing dissimilar to what I would have expected to have found in his remains; on the contrary, there were many points of resemblance.

Cross-examination. I resided in Cambridge-street, No. 5, at the time. I went there in 1842, and have had acts of kindness from Dr. Parkman. We communicated together, and visited each other; and I have the pleasure of thinking he was one of my friends. The color of the hair on the body was the same as that on his head and face. It is not so invariably. I don't recollect whether he had whiskers or no. If there had been any disproportion of the parts found, to indicate that they belonged to different bodies, I should have seen and noticed it. I am in the habit of looking at the human body regularly, and noting beauties or deformities. I did not see the remains the first day I called; but I saw them on the second day. I think I saw Dr. C. T. Jackson there, and I held some conver-

sation with Dr. Lewis. I never burned up a body in a furnace. I think that the density of heat would be as great in a stove as it would have been in the furnace I saw in Dr. Webster's laboratory. The stove I saw in the same room was a better article to use. I saw but one furnace in the college. I have used a common stove, when dissecting, to consume human flesh, with anthracite coal, which I think is not so good as wood. A large coal fire would burn up human flesh. It might be possible that the wound might have led to the heart, and no blood flowed outward. This could be accounted for by the form of the wound, which might collapse; and also by the sudden stopping the circulation of the blood, such as cutting the aorta would effect.

Direct examination. There is a diversity of opinion among medical men regarding the weight or amount of blood in the human body. It might average 40 pounds, in a healthy man.

By a Juryman. I noticed the body perhaps more particularly, on account of its being supposed to be that of Dr. Parkman.

By Mr. Clifford. Both the back and front of the body looked as if it might have been Dr. Parkman's.

Dr. Frederick S. Ainsworth, *sworn.* — Am demonstrator of Anatomy in the Medical College. All subjects must come through my hands. Keep a record of all anatomical materials. My attention was called to this record at the time of finding these remains; found I had all the subjects and materials I ought to have; all were accounted for. Examined the remains, and came to the conclusion, from the remains themselves, that they had never been sent to me or to the College for dissection. All subjects sent for dissection are injected with fluid, to preserve them from decomposition. I use a solution of arsenious acid, or chloride of zinc, with a saturated solution of alum and saltpetre.

Dr. Webster has no connection with the anatomical department. My impression was, that the person who cut up these remains had no anatomical knowledge. The person who did it might have seen a body cut up, but I should doubt whether he ever took a knife in his hand to do it.

Court adjourned.

THIRD DAY. — *Thursday, March* 21

Dr. Charles T. Jackson, *sworn.* — Have given attention to chemistry for several years. Went to the Medical College on Saturday, the 1st of December. Went with Dr. Gay; Dr. Lewis was there, and made some preliminary examinations. Dr. Gay and myself undertook the chemical part. There were shown us the remains of a human body. I took some observation of them; there was nothing to indicate that they had been used for the purpose of dissection. The body indicated some knowledge of anatomy on the part of the person that had divided it. There was no hacking about it; the thigh and hips were disarticulated neatly. I heard the testimony of Drs. Gay and Stone, and coincided with them. Was acquainted with the late Dr. George Parkman; he was very frequently at my office: he was a tall and slender man, and was otherwise peculiar.

Did not see anything in the remains dissimilar from Dr. Parkman. There was nothing differing from what I should expect in Dr. Parkman, in the muscular developments of the lower parts. The flesh showed indications of chemical application.

[The report of Dr. Jackson was now read.]

I, CHARLES T. JACKSON, being duly sworn, depose as follows: —

I am, by profession, a Physician and Chemist. On the first day of December, 1849, I was requested, by Mr. James H. Blake, to accompany Dr. Martin Gay in making some chemical and other examinations at the Massachusetts Medical College, in the city of Boston; and at four o'clock in the afternoon of that day, I went, with Dr. Gay, to the Medical College, and there met Dr. Winslow Lewis, Jr., and others, with the coroner of the county of Suffolk, and the jury of inquest. We made a general examination on that afternoon, and adjourned until Sunday morning, when we resumed our examination; Dr. Jeffries Wyman being associated with us, and aiding in the examination of the bones found in the furnace of the chemical laboratory, and also took chips of wood on which we had been shown certain brown stains, which were submitted to Dr. Wyman to examine.

Dr. F. S. Ainsworth also assisted us in the selection of fragments of bone from the cinders of the furnace. The bones found by us were in a mass of cinders and ashes which had been removed from the furnace by the police officers, and were placed in a box, and had the appearance of having been exposed to fire. They were much broken, and were, in some instances, partially fused into the cinders.

We identified, at that time, the following bones: *right os calcis*, *right astragulus*, *tibia* and *fibula*, *phalanges*, resembling those of the ring or middle finger; *coronoid process* of the *lower jaw*, and numerous fragments of a human *skull*; a human *tooth* with a hole in it, appearing as if it had once been filled by a dentist's operation; three blocks of mineral *teeth*, with platinum rivets in one of them entire, but wanting the gold plate on which mineral teeth are usually set.

A *pearl shirt-button* was also found in the ashes of the furnace, and was partially calcined. Numerous *little copper cups* found in in one of the laboratory drawers — they did not appear to have been burnt.

Many pieces of *glass* were also found among the slags and cinders of the furnace. Masses of metal were also found, which proved, by analysis, to consist of, in 25 grains,

Tin,	12.19
Lead,	11.95
	24.14

Hence, it is evidently tea-chest lead.

The cinders of the furnace, pounded and washed, yielded globules of gold, some silver, and a little copper. In the portion of slags and cinders worked by me, 30 grains of gold were found.

My attention having been called to the state of parts of the human body which Dr. Lewis was examining, I took portions of the skin and muscles from the thorax, and tested them by reddened litmus

paper, and found those parts strongly charged with alkali. I found the discolored thigh also had been imbued with alkali, and stained by the tan. I took portions of skin from the thorax and thigh, and carried them to my laboratory, and ascertained, by chemical analysis, that the alkali contained in them was potash, mixed with a very little sea-salt.

The skin in several places appeared to have been corroded by the joint action of potash and heat. The thorax had singed hair on it, showing the action of fire, and probably of flame, since the burning was superficial.

I found no alkali in the interior of the thighs, nor in the flesh beneath the skin of the thorax. The muscles of the cut surfaces at both ends of the thorax were strongly alkaline.

I observed that the skin near an opening near the sixth and seventh ribs was quite tender, and the edges of the opening into the thorax were corroded, as if by potash.

I dissected out the arteries and some of the veins of both thighs and of the leg, and gave them to Dr. Martin Gay. I subsequently saw Mr. Richard Crossley in my laboratory, in my presence, examine a portion of one of these vessels, with the adhering muscle, for arsenic and zinc, and saw that no trace of those substances was found.

The spots on the walls, floor and furniture, showed us, were committed to Dr. Jeffries Wyman, who cut out chips from them in my presence. A pair of slippers were submitted to us by the officers, and Dr. Jeffries Wyman cut pieces off from them in my presence, and took them away with him. Dr. Martin Gay took portions of the cinders and metals for examination, and his results should be compared with mine, in order to ascertain how much gold was found among the cinders. CHARLES T. JACKSON.

Attest,
J. L. ANDREWS.

I was instructed, by the Attorney General, on the occasion of the presentment of the Grand Jury, to take possession of those articles found at the Medical College, which were left with Dr. Gay. Went to his house, and got them. Took them to Mr. Crossley. (Had made a previous examination of them with Dr. Gay, and turned them over to him for further examination.) Mr. Crossley is in my employment, and occupies a part of my laboratory. My test, as to whether there was alkali in the body, was satisfactory to me. The action of potash on the human body softens the flesh, and dissolves it after a while; and when heat is supplied, it dissolves it very rapidly. With suitable apparatus, the time taken to dissolve a human body with potash would depend upon circumstances; if it were cut up in pieces and boiled, the flesh would dissolve in two or three hours. For this, it would take of potash nearly half the weight of the body; and if the whole were done at a time, a very large kettle. To dissolve Dr. Parkman entirely, (he weighing about 140 pounds,) it would take about seventy pounds of potash. Examined Dr. Webster's laboratory. The largest kettle that was there was a tin boiler, with a thick copper bottom, such as is used in boiling clothes. If the body was cut up in pieces, it would have been adequate to dissolve it; but it would not hold the whole body, or the thorax.

The next best substance to potash for dissolving a body is *nitric acid*, but potash is the best. Nitric acid would require double portion; it would take the whole weight of the body, of nitric acid, to dissolve it. The effect of it, when applied to a body, would depend entirely upon caloric; if gently heated, it would give off very little gas, and if boiled, a very large quantity. The odor of nitric acid is very disagreeable, but it is not necessary that the gas should be confined, for the safety of the operator; an open vessel would do. I saw nothing large enough to dissolve any considerable amount of matter at a time, in the laboratory. There were in the laboratory several bottles containing one or two pounds each, or perhaps more, some of nitric and some of muriatic acid, nearly full, on the window near the staircase. Did not examine all the bottles, but think there was not more than ten pounds of it altogether.

There was on the wall, (which was painted white,) and on the staircase side of it, drops of green liquid, (the stairs were those leading from the back room in the rear of the lecture-room.) I sent to my laboratory, and got some filtering paper, which would absorb the green liquid. Dr. Gay took that paper, and absorbed some of it, and carried it home with him. Since I received the things that Dr. Gay had, I have examined that paper, which I recognized to be the same paper with the green fluid in it, and found that green fluid to be nitrate of copper.

The drops were very abundant in quantity, extending all along the stairs, from top to bottom, and on the adjoining wall. Was satisfied that it was nitrate of copper; think it was spilt on the stairs, and did not run down from the top; the drops were more abundant at the bottom than at the top of the stairs. Nitrate of copper attracts moisture from the air, and remains in a liquid state a long time; the stains were in a fluid state when I was there. Nitrate of copper has an astringent acid taste, like copper. With regard to the spots of blood, I was requested by the Government to make an examination of them; but considering the blood a more proper subject for microscopic observation, I transferred the duty to Dr. Wyman.

Have had no experience of the effect of nitrate of copper on blood. A pair of pantaloons was discovered, with spots of blood on them. I think it was on Sunday Dr. Wyman cut out pieces from them. A powerful microscope is the only test to discover small spots of blood. Slippers were also found, with appearances of blood on them. Dr. Wyman cut pieces from them also.

Several punch pieces of copper were found in one of the drawers in Dr. Webster's laboratory. Others were found, much thinner, under the furnace, having upon them nitrate of copper, showing that the oxyde of copper had probably been introduced into nitric acid, for the purpose of making nitrate of copper.

I found, in that given to me,	$45\frac{6}{10}$ grs. gold.
Dr. Gay found,	47 grs. gold.
And in a piece brought to me by Mr. John L. Andrews, the secretary of the coroner's inquest, I found,	$81\frac{5}{100}$ grs. gold.
Total,	$173\frac{65}{100}$ grs. gold.

The market value of this gold, would be $6.94. There is some

gold still remaining in the blocks of teeth. Think I did not extract all the gold from the furnace; there might have been some left.

Mr. Bemis. Is there any change in the appearance of the bone, by being in fire, in connection with gold, giving any indication of the proximity of the gold to the teeth?

Dr. Jackson, [examining the bone.] — It is the same color that we see in the slag where the globules of gold are found, — a pink color, produced by oxyde of gold. It is on a block of artificial teeth. The contents of the ash-pit were taken out, — a part of them while I was there, the remainder not. The bones indicated that intense heat had been applied. Anthracite coal had been used at a high temperature. I have known the defendant for twenty-five years; have studied with him, and been on terms of communication with him. I have noticed the knife [exhibiting the sheath-knife] in Dr. Webster's laboratory, when I studied in the old Medical College. The College was removed to Grove-street in 1846. We found whiting and fresh oil upon the knife, as if there had been an attempt to clean it. This was on Monday or Tuesday. One of the officers called my attention to it. I scraped it off, carried it home, and analyzed it. The whiting was not dry, but moist, and soft as putty. I did not notice the handle. Dr. Parkman was about my height, which was five feet and eleven inches.

Cross-examination. The back, one side and the two ends, of the remains, were covered with potash, but no other part of the thorax. The thigh-bone was smoked, and the skin was softened, as if by potash and heat. If the bones had been separated from the flesh, I think they could have been dissolved in half a day. There was nothing at all in the large boiler I mentioned before, when I saw it.

I suppose the whiting had been used in cleaning the knife-handle. Tried the effects of nitrate of copper on wood, and it produced the same stains that we saw on the stair-case. [Here a piece of wood, with the above stains on it, was shown to the Court.]

Richard Crossley, *sworn.* — Have given attention to chemistry for thirteen years. Have examined the blood-vessels, at the request of Dr. Gay, to ascertain whether they were, as usual, injected with arsenic acid and chloride of zinc, and found neither of these substances present. These are the injecting substances used at the Medical College. I coincide with Dr. Jackson in his opinion about the nitrate of copper.

Dr. Nathan C. Keep, *sworn.* — Have been in the practice of dentistry for thirty years. Give attention both to natural and artificial teeth. Knew Dr. George Parkman as early as 1822. When I was a student to Dr. John Randal, Dr. Parkman was frequently there; and on one occasion, was quite sick, and Dr. Randal attended him. When he recovered, he was at Dr. Randal's very frequently, and I was acquainted with him at that time. As early, I think, as 1825, he employed me as his family dentist; and since that time, whenever he needed assistance, I have been the person on whom he called. Was shown the block of mineral teeth by Dr. Lewis. This was on my arrival from Springfield in the cars, the Monday after Thanksgiving, about one or two o'clock. I recognized them as the teeth I had made for Dr. Parkman, in 1846. Dr. Parkman's mouth was a very peculiar mouth, in many respects; differing in the relation that existed

between the upper and lower jaw so peculiarly, that the impression left upon my mind was very distinct. I remember the peculiarity of the lower jaw, with great exactness.

The circumstances connected with the teeth being ordered were somewhat peculiar. The first question asked by Dr. Parkman, when the teeth were ordered, was, "How long will it take to make them?" I took the liberty to ask why he was so particular to know. He told me that the Medical College was to be opened, and that it was necessary for him to be there, and perhaps to speak; and he wanted them by that time, or else he did not want them at all. That time was a very short one; the peculiarity of the mouth made it a case requiring as much skill as could be used. I began to do it as soon as possible; gave a large part of my attention to it, from day to day. In consequence of these circumstances, and the shortness of the time, and the close application I gave to it, I remember very distinctly what was done, more than in ordinary cases. I proceeded, in my usual mode, to take the impression. The first step was, to take an exact *fac simile* of each jaw, with wax, metal, liquid plaster, &c. A plate was made from that; and the next step was, of course, to ascertain the relation between the upper and the lower jaw. A model of the lower jaw was made from an impression taken with wax, while in a plastic state, and by means of this the lower plate was fitted. The upper plate was fitted in the same manner. [Dr. Keep exhibited the original plates, which fitted to the models.] These plates were made before the gold plates, to ascertain if there were any defect in the models. When the plates were fitted to his mouth, I requested him to close it until I satisfied myself as to the suitable distance.

A great irregularity on the left side of the lower jaw of Dr. Parkman gave me great trouble in getting this up. Each set of teeth were made in three blocks, and then joined to the gold plate. There were spiral springs that connected the two sets of teeth, to enable the patient to open his mouth and close it with less danger of the teeth being displaced, as they would have been without the springs. There was an accident which injured one of the teeth in the front block, and delayed the finishing of them until near the end of the night before the opening of the Medical College. They were finally finished, by setting my assistant at work on them with all the assiduity he could, at just thirty minutes before the opening of the Medical College. My assistant was Dr. Noble. When I next saw Dr. Parkman, he said that he did not feel that he had room for his tongue. In order to obviate that difficulty, I ground the block of the lower jaw on the inside, to make it lighter, and furnish more room for the tongue. This grinding, at that time, was not accomplished with so much ease. The teeth being on the plate, we could not grind on a large wheel. We had to grind on a very small wheel. This grinding removed the pink color that represented the gums, and also the enamel from the inside of the lower teeth. The beauty of it was defaced by this grinding. The shape left by the grinding was very peculiar, because of its being ground on a small wheel, smaller than itself.

I saw Dr. Parkman frequently. The last time I saw him was, as near as I can remember, about two weeks previous to his disappearance. He called late in the evening, about ten o'clock. It so happened that, not being very well, I had retired for the night. The

person who went to the door, seeing Dr. Parkman, asked him in, and went up and told me that it was he. I sent word to him that I would come down as soon as I could. He told me his trouble. I took his teeth, both upper and lower, examined them, and put on a new spring. He staid about a half an hour, when he was ready to go home. I had no more professional intercourse with him at all. I went into the country to pass Thanksgiving, at Longmeadow, and returned on the Monday morning after Thanksgiving. Arrived home, I was told that Dr. Lewis wanted to see me, and he presented me with these remains of mineral teeth, [showing them,] with the request that I would examine them. On looking at them, I recognized them to be the same teeth I had made for Dr. Parkman. The most of the upper portion that remained was the block belonging to the left side of the lower jaw. Several other parts had been very much injured by fire. I proceeded to look for the mould upon which these teeth were made, put the metal upon its proper place, and it fitted exactly. There is sufficient left of these blocks to identify the place where they belonged. There is no mistake. [He then showed the mould and remains of teeth, etc.] All the pieces having been found, there were five pieces, which fitted to their exact places. The only piece that could not be identified might or might not have been right; but it was supposed to be right, as there was no reason that it should not be so.

[The blocks of teeth, etc., were here shown to the Jury by the witness, and afterwards to the Judges. During the progress of Dr. Keep's testimony, the Court and the witnesses were affected even to tears, and Dr. Keep, particularly, was overcome with emotion.]

I found imbedded, more or less, with these mineral teeth, some very minute portions of gold, which is termed cancellated, being peculiar to the jaw-bone. I saw the teeth in the doctor's head, the last time I saw him, in conversing with him. The presumption is very strong, that these teeth were put in the fire in the head. Such is the nature of these mineral teeth, that, especially if they have been worn, they absorb small particles of water; when suddenly heated, the surface becomes closed, and the water becomes steam, and there would be a report, with an explosion. I have known such explosions to take place, on heating teeth that have been worn; and when they have been worn recently, the explosion is always sure to take place, if heated rapidly. If, while in the head, they were put into the fire, only a small portion would be exposed to the heat; and as the temperature would be raised so gradually, the water would have time to escape; and this accounts, in my mind, for the teeth not being cracked, excepting the front teeth, which would have been most exposed. I have found, fused into the remains of teeth, portions of the natural jaw. All these teeth were exhibited to me at the same time.

Cross-examination. My first impression, on seeing the teeth shown me by Dr. Lewis, was, of the circumstances which I have related. Do not think I have been burnishing up my recollection since they were shown me. Knew them for myself, without examining the mould; but I did examine them with the mould. The mould of Dr. Parkman was preserved, as moulds usually are, for future use, in case of accident to the teeth.

I heard of Dr. Parkman being missing before I went into the coun-

try. First time I heard of his being missing, was the first night it was advertised in the papers.

Dr. Lester Noble, *sworn.* — I was an assistant of Dr. Keep, in 1846, and remained in his service until 1849. Am now pursuing my studies in Baltimore; am a student at the Baltimore College. Recollect working upon teeth for Dr. Parkman; it was in the autumn of 1846.

[Here he was shown the mould of Dr. Parkman's teeth, and recognized his hand-writing on it.]

Yes, this is my hand-writing — "Dr. Parkman, in October, 1846."

I did recognize these teeth. Was called to the Attorney General's room; the blocks were brought in under seal, and there I examined them. They were delivered to me for safe-keeping, and I have kept them in my pocket since, until they were called for to-day. The circumstances accompanying my recognition of them were, in the first place, the general *shade* of the block, which was the same that I remember to have worked upon for Dr. Parkman. Also I found on the inside a surface which appeared to be ground. At the moment I saw it, I recollected that this block of Dr. Parkman's teeth had been ground in the same way; that I saw Dr. Keep grind them. It was after the doctor had worn them, after he had been to the Medical College with them, that he said his tongue was incommoded.

I have every reason to believe that the blocks were Dr. Parkman's teeth, and no reason to believe that they were not; have as good reason to believe it as any other fact. I have not the slightest doubt that they were the blocks I worked upon for Dr. Parkman. We were obliged to be very prompt, in making the teeth, to the time of an appointment by Dr. Parkman. They had to be ready at the time, because Dr. Parkman was sure to be there at the very moment he appointed. The time of the appointment for their being finished was, when he wished to attend a meeting at the Medical College. An accident which occurred in blocking spoiled a part of the front block; it occasioned the necessity of remaking it, which, of course, caused delay, so that we had to work upon them a large portion of the night; remember that I worked upon them almost all night. We got them finished just in time for Dr. Parkman to go over to the College with them. I went myself, in order that I might see, when the doctor had occasion to speak, how well he used them. Think it was in the early part of November, that the Medical College was opened. I rather think he did not speak; merely, when complimented for his generosity, by Governor Everett, he acknowledged it with a bow, yet I am not confident but what he said a few words. I understood that he had been liberal in a donation by furnishing the ground, etc.

Here the Court adjourned.

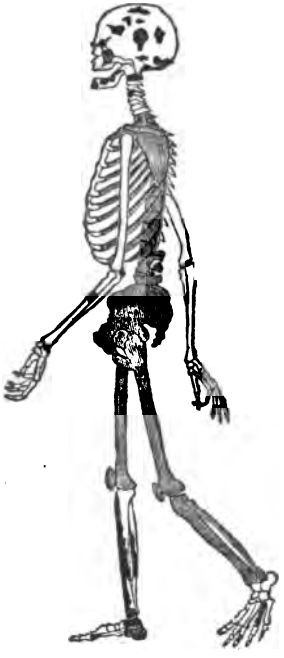
AFTERNOON.

The Court and Jury came in at half past three o'clock.

Dr. Noble — *examination resumed.* — The Medical College was opened in the early part of November. It was in the early part of my studies that I worked on Dr. Parkman's teeth; I began about the 11th of September. We first take the impression in wax. I made

the moulds of these teeth in the wood, and made the metal casts. Could not tell precisely how much time was spent on them; it must have been quite a number of days. Have put blocks of teeth into the fire, to see how readily they would crack, and I have never known them not to crack; they may be heated up gradually and cooled with perfect safety. Coincide with Dr. Keep as to his opinion. Some time after the fitting of the teeth, — about a year, I think, — an accident happened to them; they bent together, and they had to be reannealed to the pattern. I had to heat them for this purpose, and the mark of the blow-pipe still remains.

Dr. Jeffries Wyman, *sworn.* — I am Professor of Anatomy in Harvard University; have been a teacher of anatomy for the last eight years. First went to the Medical College on Sunday, the 2nd of December. I had given to me the charge of the bones found in the furnace; made a catalogue of them. These bones in *this* box are the bones. I was not called specially to the other parts of the remains. [The witness explained a drawing of a skeleton, in which the bones found



were marked in yellow.] There were no marks of the body being a subject for dissection; it struck me that the sternum was taken out as it would have been by a physician at an ordinary post-mortem examination. I was also struck with the separation of the sternum from the clavicles, or collar-bones, and first rib; the route for the knife to pass through is so difficult, that a person having no knowledge of the structure of the parts would not have been likely to direct it in that way. I did not feel myself called upon to examine critically. I

should consider the person past the middle age of life. On examining the thorax, and turning it over, I was struck with the quantity of hair on the back; I never saw a person before with so much. If a person was killed by a blow, and then stabbed immediately, there would have been a flow of blood according to the vessel wounded, and the depth of the stab. A post-mortem examination may be made without an effusion of blood, if made with care. I made an examination of certain spots on the side of the staircase, near the lower landing; they were not blood, but tobacco stains. This has no reference to the spots found higher up; I discovered nothing positive in regard to the spots higher up. Saw spots, which I was told by a chemist were nitrate of copper; did not examine them. I performed some experiments on the effect of nitrate of copper on blood. Blood is known by red flattened globules, or discs; I placed some blood under the microscope, and applied nitrate of copper in solution. The action was not immediate; after a few hours it took place, and the blood discs disappeared. I should say that nitrate of copper would destroy all characteristics by which blood could be detected by the microscope. There were no other spots in the building on which were any marks of blood, or what was recognized as such.

[Witness was shown some slippers, on which were spots supposed to be blood.] They are the same from which I cut portions having similar spots, which I examined and found what I considered to be blood. [Pantaloons were shown, marked with the name of Dr. Webster, which the witness identified as the ones from which he cut pieces.] It was the right slipper that was bloody, and the left leg of the pantaloons on the bottom, on the outside. The slipper had also what looked like Venetian red on the sole. The pantaloons had another spot, which might be Venetian red, but which seemed to be rather a mark of acid. The blood did not seem to have fallen from any height, for it had not trickled down; there was a piece of paper found in the laboratory, with two spots of blood. [The witness explained the classification and arrangement of the bones, referring them to the different parts of the body.] The first bone belonged to the front of the forehead. [Witness explained how he knew it to belong there.] The next was a piece of the temporal bone, known by the canals that pass through it. The next was behind the ear. [The witness proceeded to demonstrate the places of the bones, and succeeded in putting together three fragments, which form the greater part of the right-half of the lower jaw.]

Attorney General. Please state to the Jury whether there is anything remarkable in the correspondence of this jaw with Dr. Keep's model.

Witness. I made a drawing of the jaw before I saw the model, or knew of the condition of Dr. Parkman's teeth. There was an absence of the teeth from the coronoid process to the first molar, or bicuspid; I was not absolutely certain which, but my impression was that there were three teeth gone up to the bicuspid. I made a drawing in a pencil of a bicuspid, as a probability. On comparing the fragments of bones to the model, I found that Dr. Parkman had lost these teeth. They seem to correspond in this respect; as the model was taken from the mouth when the gum covered the bone, we cannot expect an exact correspondence. If the curves of this jaw had been carried out, as we should expect, by analogy, it would have given

a rising chin. The portion of the left lower jaw had a remarkable depression; have not witnessed the same in any other jaw, having examined a hundred and fifteen or twenty of them, perhaps, with particular attention to the jaws. There were several vertebræ, a joint of an elbow, some bones of the wrist, some joints of the fingers, part of the bones of the right leg, known unmistakably to be such by their character; there were not duplicates of any bone, nor were there any bones except of the missing parts not found in the vault or tea-chest. There were some fractures, which had the appearance of being made before calcining. Before calcining, the animal matter adheres; there is a greater disposition to splinter, and to angular forms, rather than to crumble.

[The witness showed the jury a fracture of a skull-bone, which had the appearance of being fractured before being calcined. He did not think the sign was absolute.]

By the Court. Does your distinction refer to the fractures made before and after death?

Witness. Before and after calcination only.

Cross-examination. In a half-calcined bone, there is less disposition to crumble. Think nitrate of copper effectual to remove blood, but not so good as water, unless the wood were to be destroyed. Should think muriatic acid a better solvent of blood, as it is of animal tissues generally, than nitric. Physiologists generally consider that the blood is about the fifth of the weight; this would be twenty-eight pounds for a body of one hundred and forty pounds. This is by no means, a precise statement; but twenty-five pounds have been actually obtained, and probably not all was obtained. There was a thorough examination of the laboratory for blood. I superintended the taking up of the brick floor, which was laid in sand. Found no traces of blood. Took chips from the floor to examine; found no blood on them. Should think the cutting to pieces indicated that the person doing it had some knowledge of anatomy, and knew where the joints were to be found. If blood had fallen from the height of three feet, it would have given an oblong mark, falling on a vertical substance; could not tell, from the blood-marks, how long it had been on. After a day or two, blood-marks assume a brown color; after that, they do not change for years. The microscope distinguishes human blood from the blood of the lower animals, but not from that of the higher, as the ox.

PROF. WYMAN'S CATALOGUE.

The following is a catalogue of the fragments of bones taken from the ashes of the furnace in Dr. J. W. Webster's laboratory, at the Medical College in Grove-street, and first seen by me December 2, 1849, (Sunday.) [Referred to in Professor Wyman's testimony.] The list of fragments of bones given at the Coroner's Inquest is subjoined in another order. The present catalogue includes the parts there enumerated, as well as others which were determined subsequently to the Inquest.

The following are the names of the bones identified, and the characters by which they were determined. Those about which a question existed are marked as doubtful.

No. 1. *Frontal bone.* Outer angle of the orbit, left side. On this may be seen the outer portion of
Temporal ridge,
Part of the cavity of the orbit,
Supra orbital notch,
Part of the frontal sinus.

No. 2. *Temporal bone.* Petrous portion of the left side.
Internal auditory foramen,
Jugular fossa,
Carotid canal,
Fenestra ovalis.

No. 3. *Temporal bone.* Digastric fossa of the left side, with a portion of the "additamentum" of the squamous suture.

No. 4. *Spheroidal bone.* Base of the great wing on the right side.
Foramen rotundum,
Foramen ovale,
Spheroidal sinus,
Vidian canal,
Suture.

No. 5. *Temporal bone.* Mastoid process.
Mastoid cells.

No. 6. *Parietal bones.* Two tables.
Vascular canals — Glands of Pacchioni.

No. 7. Two fragments of the *Occipital bone.*
a. Occipital protuberance.
b. Left lateral portion, with lateral sinus.

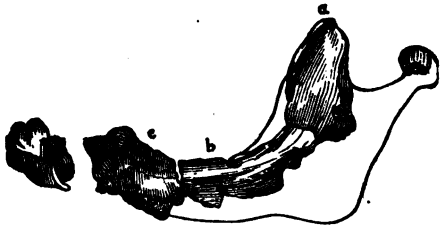
No. 7*a*. Fragments of cranium not determined. Some of them indicate fracture, previous to burning.

N. B. — A few of these were found, during *the second search* of the ashes made at the Marshal's office.

No. 8. Left *Malar bone.*
Edge of the orbit,
Edge of temporal fossa,
Maxillary suture.

No. 9. Left *Upper jaw.*
Antrum,
Suture fitting that of No. 8,
Ridge.

No. 10. One of the condyles of the *lower jaw.*



[*No.* 11. *Fragments of the lower jaw — inside of right half.*]

No. 11. Four fragments of the *lower jaw.*
a Coronoid process.
b Alveolar portion which succeeds to *a* — dental canal.
c Portion succeeding to *b*, with alveolus and dental canal.
d Symphysis. (Chin.)

No. 12. Atlas. Upper and lower articulations, and arch of left side.
Tubercle for transverse ligament.
(A piece of tarsal bone, right cuboid adheres. See No. 25.)

No. 13. Body of a *cervical vertebra*.
Under surface projecting from the slag.

No. 14. Fragments of a *Humerus*.
These are somewhat doubtful.

No. 15. Tip of *Olecranon* process of the *Ulna*.

No. 16. Fragment of a *Radius* or *Ulna*.

No. 17. *Scaphoides* of the left side.

No. 17*a*. *Trapezoides*. (Side right or left, doubtful.)
(This was found on the second search.)

No. 18. Second phalanx of *a finger*. (Side ?)
(Found on second search.)

No. 19. Terminal phalanx of a *finger*. (Side ?)

No. 20. Fragment of a *Radius*.
(Right or left doubtful.)

No. 21. Fragments of the *Right Tibia*.
Tuberosity with spine on the right.
Canal for the nutritious artery to adjacent ridge.
Spine — articulation with fibula.
Lower articulating surface.

No. 22. *Fibula* — central portion.

No. 23. Right *Os Calcis* — nearly entire.

No. 24. Right *Astragalus* — nearly entire.

No. 25. *Tarsal bone* — Right *cuboid*.
(This adheres to No. 12.

? No. 25*a*. Tarsal bones.

No. 26. Metatarsal bone of the *great toe*.
The ridge of the articulating surface indicates the right.

No. 27. *Metatarsal bones* — distal portions.
(One of the bones found on the second search.)

No. 28. Sesamoid bone.

No. 29. Terminal phalanx of the *little toe*.
A part of middle phalanx adheres. (Second search.)

No. 30. Middle phalanx of a toe.

? No. 31. Phalanx of a toe. (Second search.)

No. 32. Fragments of fingers and toes.

No. 33. Fragments of cylindrical bones.

No. 34. Fragments of bones of face.

No. 35. Fragments not determined.

The fragments of bones enumerated in the preceding catalogue belong to the following regions of the body, viz., cranium, face, neck. fore-arms, hands, right leg below the knee, and feet.

There are some fragments which were supposed to belong to the *humerus*. They correspond to that bone as to their angles and curves, but are not of sufficient size to render it *certain* that they are parts of a *humerus*.

Beside the pieces of cranium in the package marked No. 7*a*, others are to be seen in the slag connected with the fragments marked Nos. 13 and 21. Some of the pieces in No. 7*a*, do not present the appearance of having been fractured by the process of calcination, but by mechanical violence previous to the calcination.

The fragments of the lower jaw are those of the right side and chin, and belong to a person from whom the teeth had disappeared between the coronoid process and the region of the first molar or second bicuspid. The *alveoli* have been absorbed, and replaced by a flattened

surface, with a ridge on one of its borders. This would indicate that many months had elapsed since the disappearance of the molar teeth. The bone of the leg (the tibia) is unequivocally that of the right side.

JEFFRIES WYMAN.

Dr. Oliver W. Holmes, *sworn.* — I am Parkman Professor of Anatomy and Physiology in the Medical School. The professorship is named after Dr. George Parkman. The dedication of the Medical College must have been on the first Wednesday of November. Noticed Dr. Parkman's teeth, on that occasion, as new; they were white and long. Dr. Webster lectures to the Medical Class four times a week, on the subject of Chemistry. His lecture-room, laboratory, and small room in the rear, form an establishment entirely distinct from those of the other Professors. He never had any need of anatomical subjects. The remains indicated that the person who separated them knew where to cut; there is no botching about the business. Noticed a discoloration, which seemed to be the effect of heat; was told, and readily believed, that it was the effect of a caustic substance. Was familiar with the form of Dr. Parkman; did not see any particular similarity between the parts and Dr. Parkman, or anything dissimilar. A stab between the sixth and seventh ribs would not necessarily reach the heart. If it did, there might be more or less effusion of blood externally, according to circumstances. If the wounds externally and internally corresponded, there might be external effusion; if the external wound slipped over the internal, the effusion would be chiefly internal. My lecture-room is over that of Dr. Webster; have never heard noises from his room. The students in my room sit on rising seats; I stand on the floor.

Cross-examination. Could not know what the effusion of blood would be, without knowing the direction of the knife; if the knife touched the heart, much blood would be inside, but not probably all. Have heard the noise of students below, when in the demonstrator's room, which is at the head of the stairs. Cannot say that the hair had been singed by fire. Am not so familiar with the effects of caustics as to say what effect could be produced by them; but was prepared to believe that all I did see had been so produced. A mortal blow might be struck on the head, and no effusion of blood take place.

William D. Eaton, *sworn.* — I am a police officer; was present when the thorax was taken from the tea-chest. Was first sent to the College by the Marshal. I was searching one part of the building with Mr. Fuller. We took the tea-chest, and carried it into the middle of the room; turned it over, and the body came out, with the back up. Rubbed off some of the tan; saw a hole in the side; remarked that it was about the size of that knife we found in the tea-chest. The knife was closed when found; the wound was on the left side.

Cross-examination. It was not the knife which has been exhibited to the Court, but a jack-knife, which I opened. I put my fingers on to the wound. I saw the hole in the chest as soon as the body was turned over. I am certain the wound was on the left side. I did not measure the wound, except by putting my fingers to it. Nothing more had been done to the body, except to turn it over, and take it out of the box, and brush a little tan off, which I did with my hand.

Some half a dozen persons were present. At the time I saw it, I can say that no person did anything to the body, except myself. I did not know that anything was in the box, until it was turned over. I thought that it was full of minerals. All we could see, at first, was the minerals. I took out some of the minerals at the top, but could not see the tan. There was a second layer of minerals. I stepped away from the box, when my attention was called again to it, after it had been turned over, by the other officers. I did not stop at the College on Friday night, when Dr. Webster was arrested, but did every day and night after this, until the body was removed. I saw the box moved round, and turned over.

At twenty minutes to seven, P. M., the Court adjourned.

FOURTH DAY. — *Friday, March* 22.

Ephraim Littlefield, *sworn.* — I am the janitor of the Medical College; superintend the building, make fires, sweep, &c. Have been janitor seven years, — three winters at the Mason-street College, and four at the new. Have known Dr. Webster seven years. Have known Dr. Parkman over twenty years. Was present at an interview, Monday evening, Nov. 19th, between Drs. Webster and Parkman. I was in Dr. Webster's back private room, assisting him, towards evening. Dr. Webster had three candles burning. He was looking at a chemical book, and appeared to be reading. I stood at the stove stirring some water, in which something was to be dissolved. There was salt in the water. I heard no footstep, but saw Dr. Parkman enter the room from the lecture-room. Dr. Webster looked round, surprised to see him enter without being heard. He said, "Dr. Webster, are you ready for me to-night?" — speaking loud and quick. Dr. Webster answered, "No, I am not ready to-night, doctor." Dr. Parkman said something else, I do not remember what. He either spoke of Dr. Webster's selling something mortgaged, or mortgaging something sold. Dr. Parkman took out papers from his pocket, and Dr. Webster said, "I was not aware it was so." Dr. Parkman said, "It is so, and you know it." Dr. Webster replied, "I will see you to-morrow." Dr. Parkman stood near the threshold of the door, raised his hand, and said, "Something must be done to-morrow." He went out, and it was the last time I ever saw him in the building.

When I was standing in front of the College, about half past one o'clock, the next day, Tuesday, Dr. Webster came and asked me if I could carry a note to Dr. Parkman, and added, that if I could not get any one I could trust, that I must carry it up myself. I got a boy, named John Maxwell, to carry it up. He was gone about twenty minutes, and said he gave it into Dr. Parkman's hands, at his house. I had an interview with Dr. Webster about noon, the same day Dr. Parkman was there — Monday — before Dr. Parkman was there in the evening. I am very positive it was that same day. Dr. Webster asked if the vault had ever been fixed, where we used to put the remains of subjects from the dissecting-room, and from the Demonstrator of Anatomy's room, — meaning the vault in the entry. He added, that there had been something said about having it repaired, or a new one built. He asked what the matter was with it. He

asked where it was built. I told him it was built right under his coal-bin, which was between his laboratory and the dissecting-room. In the bin we put about eight tons of coal. I told him the weight of this coal sprung the wall, so as to make it leak, and caused an offensive odor to be sent to all parts of the building. I told him it had been fixed. He asked me how it was fixed. I told him the vault had been all *kivered* up with dirt, and there had been no smell since. He asked me how I got down under the building to *kiver* it up, or how any one could get down. I told him we took up the brick floor in the dissecting-room entry, and then took up the board floor, about six feet long. He asked me if that was all the way to get down under the building. I told him it was, under his laboratory or the front room, and told him how the walls run. He asked me if we could get a light into that vault; and I told him "No." He asked if I was sure of it. I told him I was, for I had tried, a few days before, to get a light into the vault. He said he wanted to get some gas out of the vault. I had tried to get a light in, to find something which Dr. Ainsworth had lost, and the foul air put it out. Dr. Ainsworth had let down an African skull, to macerate in the vault, and the rope had rotted off. I attempted to put a light down, and it went out. Dr. Webster told me he wanted to get some gas to try an experiment. I told him then would be a good time, as it was high tide, and the water would press the gas up. I asked him how he was going to get the gas into any vessel. He said he had apparatus that he could do it with. He told me when he wanted to get the gas, he would let me know. And that is the last I ever heard of it.

I do not recollect any other interview with Dr. Webster, before the day of the disappearance. But now I do recollect a message to the Hospital. He said he wanted me to get him some blood, for his next day's lecture. He said he wanted as much as a pint. I took a glass jar off from his shelf, holding nearly a quart, and asked if that would do to get it in. He said "Yes; get it full, if you can, over at the Hospital." Just before two o'clock, I carried the jar to the front entry, and put it on the top of the case, where I put up notices. I went to Dr. Holmes' lecture before it finished. At Dr. Holmes' lecture-room I saw the student (John *T*. Hathaway) who attends the apothecary's shop in the Hospital. I told him there was a glass jar, in which Dr. Webster wished to get a pint of blood. He replied, "I think we shall bleed some one to-morrow morning, and I will save the blood." Friday morning, I went to the apothecary's shop at the Hospital, and the student said he had no blood, as they had bled nobody. I told Dr. Webster, about eleven and a half o'clock, Friday, that we could get no blood. He said he was sorry, as he wanted to use it in his lecture. That is all I know about the blood.

I have no recollection of having any interview on that morning with Dr. Webster, after the one mentioned. In the morning, Friday, November 23, after I made his fire, swept the room, and went to set the broom behind the door leading from his back-room to the laboratory, I saw the sledge-hammer behind the door. It was usually in the laboratory. The handle was about two feet long, of white oak, and would weigh six or seven pounds. I never saw it in his back-room, or anywhere, except in the laboratory, before. One side of the hammer was about as large round as half an orange, and it was rounded on

both sides. I carried it down stairs into the laboratory, and set it up against the box in the centre of the laboratory. I have never seen anything of it since, though I have hunted the building all over.

I do not remember anything particular till quarter before two o'clock, when, after I had eaten my dinner, I was standing in the front entry, looking out at the front door. I thought, before the Coroner's Inquest, that it was about half past one; but, reflecting upon it, I remembered that that day I had examined the tickets at Dr. Holmes' door, which would make it quarter of an hour later. I saw Dr. Parkman approaching the College, in North Grove-street, abreast of Fruit-street, walking very fast. I entered Dr. Ware's lecture-room, and lay on the settee nearest the register, and nearest the door, waiting for Dr. Holmes' lecture to finish, to help fasten his doors and clear away his things.

I did not hear any one enter Dr. Webster's lecture-room. The front door was open till after the lectures, that day. Dr. Ware's lecture-room door was closed. That and Dr. Webster's lecture-room door close by a spring.

After putting away Dr. Holmes' things, I came down and locked the front door. About quarter past two o'clock, Dr. Holmes went out. He is generally the last one to go out of the building. Then I went down stairs to prepare the furnaces for the next day. I always sift the coal out in the afternoon. I cleared out the furnaces that warmed the anatomical and medical lecture-rooms. They are both in the cellar, close under the front steps. I then went up and cleared out the stove in the back private room of the medical lecture-room. There are three lecture-rooms. The anatomical, up stairs; the chemical and medical, below — the former in the west, and the latter in the east wing.

I then went down to Dr. Webster's laboratory door, to clear up his room — the door that leads to my cellar — the door under the stairs leading from Dr. Webster's small room to his laboratory under the laboratory stairs. I found that door bolted on the inside. I then went round to the next door, that led to his laboratory, and found that fast. Put in my key; found I could not get in, and that it was bolted. I heard him in there walking. I heard the Cochituate water running. Went up stairs, and tried the door that led into the lecture-room from the front entry.

I found the door locked; it was bolted on the inside. I went into my kitchen; stopped a while, and laid down. About four o'clock, a young lady called; came into my bedroom, and told me there was a gentleman at the door who wanted to see me. I went to the door, and found Mr. Pettee, of the New England Bank, collector of tickets. He wanted me to fill out a course of tickets for a student who was about to leave town; the student was Mr. Ridgeway. He gave me the tickets, all but Dr. Webster's; I took the money for Webster's tickets. After Pettee went away, in about fifteen minutes, I went to Dr. Webster's door and found it fastened. Did not try again that day, till late at night. My object in going was to do his work up, wash his glasses, and fix his fires. In the evening, about half past five o'clock, I was called out of my kitchen, and heard some one coming down the back stairs that led from the front entry. It was Dr. Webster; he had a candlestick in his hand, and a candle burning; he never did

use a lamp. He blew it out in my entry, and left it on the settee. He passed out through the shed; saw nothing more of him that night.

After Dr Webster went, I fixed myself, and went to a party. Got home about ten o'clock, or a few minutes after. The party was at Mr. Grant's.

The first door I went to was the laboratory door, the nearest my room. Found it fast; then started to go to the dissecting-room door. Unlocked the dissecting-room door, to put out the lights. The students there used to dissect till nine or ten o'clock. Found the lights out; bolted the outside door of the dissecting-room, and went to bed. I never knew Dr. Webster's door locked before, on the night of a lecture-day, since I have been in the College. On Saturday, there were but two lectures; had but two fires to make. Made a fire in the dissecting-room. Forget whether I went to unbolt the door of the dissecting-room before or after I made the fire; when I did go, I found it unbolted and ajar. I thought I had fastened some student in, the night before. Never knew any one had a key of the outside door, except Dr. Leigh, the librarian, who has been there three years. Never knew of any other person getting access to the building after it was locked up at night.

I unlocked the lecture-room door — the one Dr. Webster came out of the day before — and went in. I went through the lecture-room, but could not get through the private room into the lower laboratory. The door was locked, and there was a lock on it which I never had the key of. He had the lock put on it to lock up his laboratory, when out of use, in the summer time. Went back to my room. Soon after I went back, Dr. Webster came, with a bundle under his arm, through the east shed. Met him in the entry. He told me to make him a fire. I made a fire in the stove, in the laboratory. After doing it, turned and went out. Don't recollect of being in his laboratory or lecture-room again that day. Saw Dr. Webster again before eleven o'clock, in the lower entry; he came into the College, with a bundle under his arm, done up in a newspaper. Paid him $15 in gold, for Ridgeway's ticket. Ridgeway had paid me $82, for a full course of lectures. I gave the rest to Mr. Pettee.

I did no more work for Dr. Webster that day. Saturday is my sweeping day. I heard him in the laboratory; I speak of the lower one; that 's what I call the laboratory. Did not see him again that day. I heard walking in the laboratory; heard moving; could not tell what was doing. Heard the water running in Dr. Webster's sink; it was not in the habit of running. I did not see Dr. Webster all day Sunday. Sunday night I was in North Grove-street, facing Fruit-street, talking with Mr. Calhoun, one of Mr. Fuller's foundery men, about the mysterious disappearance of Dr. Parkman. Had heard of that disappearance on Saturday afternoon; Kingsley told me. While talking, saw Dr. Webster coming into Fruit-street, from Bridge-street. I remarked that there was one of our Professors coming. When Dr. Webster saw me, he came right up to me. The first words he said to me were, "Mr. Littlefield, did you see Dr. Parkman during the latter part of last week?" Told him I did. He asked me when I saw him. I said last Friday, about half past one o'clock. He then inquired, "Where did you see him?" I said, about this spot. He asked me which way he was going. I said he was coming right towards the

College. I told him I was standing in the front entry, looking out at the front door.

Dr. Webster had his cane in his hand, — and struck it down upon the ground and said, "That is the very time when I paid him $483.60." I remember he put the odd cents on. I told him I did not see Dr. Parkman come in or go out of the College, for I went directly into Dr. Ware's lecture-room, and laid down on a settee. He said he counted the money down to Dr. Parkman, in his lecture-room; and that Dr. Parkman grabbed the money from the table without counting it, and ran as fast as he could go, up two or three steps at a time. Dr. Webster said Dr. Parkman told him he would go with him to Cambridge and discharge a mortgage; and added, "I suppose he did, but I have not been over to the Register of Deeds' office to see." Dr. Webster said that this was the first he had known of it; he had read it in the *Transcript*. Dr. Parkman was there said to have been engaged to meet an unknown gentleman. He had come over to see about it, for he was the unknown gentleman. He said he had been to see Dr. Francis Parkman. He then went away.

When Dr. Webster spoke to me, he used before to look me in the face, with his head up; he did not then, but looked down, and seemed confused and agitated. I never saw him look so before. His face was thoughtful; he looked pale. I cannot say which way he went; think it was towards Cambridge. On Monday I could not get into his room to make up the fire. The first I knew of his being in the College, my wife told me; she told me that Dr. Samuel Parkman had been there to see Dr. Webster. I asked her how he got in, seeing all the doors were kept locked.

I went up the laboratory stairs, and saw Dr. Samuel Parkman and Dr. Webster, in the back room. They were talking about old Dr. George Parkman. I overheard conversation about some money; Dr. Parkman said the old Dr. was very angry. I staid there but a minute; did not see Dr. Samuel Parkman go away. The front door-bell rang, and I went to the door, and found there a person who I ascertained was Mr. Parkman Blake. He asked me if Dr. Webster was in. I told him he was. He said he wanted to see him. I asked him his name, that I might carry it to Dr. Webster. He gave it. I had my key in the lecture-room, but it was bolted. I went down and came up the other way to Dr. Webster. He hesitated somewhat, and then said, "Let him in." I unbolted the door; do not know how long Mr. Blake was there.

I went again to the laboratory door, nearly at twelve o'clock, to see whether any work was to be done. Found it locked. Don't know whether the door-bell rang or not. I went to the door, and found Kingsley, and they said they could trace Dr. Parkman nowhere but to the Medical College, and they had come to look. I told them I would show them all the rooms that I could get into myself. Met Dr. Holmes on the stairs; he asked if they wanted to haul all the subjects out of their chests. They said no; they merely wanted to see if he had stowed himself away in the attic. Dr. Holmes told me to show them all around. Went to Dr. Webster's room first; it was locked. We knocked two or three times, with loud raps. Dr. Webster did not come at first. Finally he came, unbolted the door, and stuck his head out. I told him what the officers had come for;

did not hear him say anything. We went in, looked through the room, and went down into the laboratory. Do not recollect hearing Dr. W. say anything. Don't remember whether he went down into the laboratory with us. We unbolted the lower door, and went out. I showed them all over the rest of the building, and they went away. Recollect of nothing more that day, on the subject.

Tuesday morning, could not get in to make the fires, further than the lecture-room. Went about half past nine o'clock, unlocked the lecture-room door, and found Dr. Webster in a sort of smoking cap. I asked him if I should make a fire in his furnace. He said no; said the things for his lecture that day would not stand much heat. Tuesday evening, I told my wife I guessed Dr. Webster had got his room open; I went up into Dr. W.'s back room; he was reading a paper. He asked me if I knew where Mr. Foster kept, near the Howard Athenæum. I asked him if he was a provision dealer. He said he was. I said I knew him. He asked me if I had bought my Thanksgiving turkey. I said no; I had thought of going out to Thanksgiving. He added, "Take that order, and get you a nice turkey. I am in the habit of giving away two or three every year, and perhaps I shall want you to do some odd job for me." I thanked him, and told him I should be most happy to do anything for him I could. He then gave me another order to Foster, to send him, to Cambridge, some sweet potatoes. I went to Foster's; he took the order, and told me to pick out such a turkey as I liked. I came home, and staid there till half past six. It was the first time he ever gave me anything. The idea of his giving a cent's worth was remarkable. I was going out to the Suffolk Lodge of Odd Fellows, and met Dr. Webster in the entry. He had a candle, which he blew out, and set upon the settee. He went out with me. I asked him if he should want any fires in his room that week, as there were no lectures. He said, "No, Mr. Littlefield, I shall not need any fires." He inquired if I was going down town. I told him I was going to the Lodge. He said, "You are a Freemason, are you?" I replied, "Yes, I am a kind of one." We parted, and he went towards the bridge, and I up Cambridge-street.

Wednesday morning, Prof. Webster came to the College early. He went into the laboratory, and I heard him moving things around there. I went to the door and tried to listen, but the catch over the key-hole was down. When I stood listening, I saw my wife looking at me. I went into the kitchen; I told my wife —

[Prisoner's counsel objected to his saying what he told his wife.]

Attorney General. State what you did when you saw your wife.

Witness. I was picking a hole through the partition when my wife saw me; I cracked off a small piece, and thought Dr. Webster heard me. I went into the kitchen afterward; then came out and laid down on my face, and looked under the door. I thought I heard the moving of a coal-hod on the floor from near the door. I could see him, as high as his knees, going toward the furnace where the bones were found. Cannel coal and bark were kept near the laboratory stairs, in a bin; hard coal was kept near the furnace. Could see no more of him. Laid there about five minutes. Went out with my wife about nine o'clock; did not get back till one o'clock. About three o'clock I passed through the dissecting-room. In passing up stairs to the Demonstrator's room, I first felt heat in the wall from Dr. Webster's labo-

ratory. The staircase brought me in contact with the wall; I put my hand upon it, and it was so hot I could not hold my hand on it long. I knew it proceeded from a furnace, where I had never known any fire, and never made any fire. I went into the store-room, of which I had a key. I put my key into the door of Dr. Webster's laboratory; it was not locked, but was bolted. Found the other cellar-door of the laboratory locked. Unlocked the door of his lecture-room, and went in, but found the door of the back room locked. I then went down into my cellar, and back of the building, to see if I could look in the window and see any fire. I climbed up the wall to the double window, having a light on each side, and got in. The first place I went to was the furnace. I had never made any fire there; did not seem to be much fire there. It was covered up by a soapstone cover, and the whole top of the range was covered over with pots of minerals, and an iron cylinder was lying on it. I did not move anything.

I then took up a broom, and went to where there were two hogsheads full of water. I tried one of them with the broom-handle, and found the water was two-thirds out; the other had a gasometer in it. I did not try the water with the broom, but it was low; a spout was lying in one hogshead, leading to the sink. They were full on Friday; there were also two barrels of pitch pine kindlings, which, on Friday, had been one full and the other two thirds full. The kindlings were two thirds gone; I could not think what he had done with them. On the stairs I saw spots such as I had not seen before; they were much spattered. I reached down and tasted of one of the spatters; it tasted like acid.

The water was running; I noticed the running of the water that week, because I had set it running before, and he had stopped it. He said the noise disturbed him, and it spattered the floor. I did not see Dr. Webster that day. There were grape-cuttings, an empty box, and a bag of tan, left by the laboratory door on Monday. They stood there till Friday. I do not remember when the tan went in, but he took the grape-vines and the box in himself, on Friday; I tried to carry them into his room several times during the week, but could not get into his room.

[Witness explained a mistake of dates made by him before the Coroner's Jury.]

Thursday I did not see Dr. Webster all day. That day was Thanksgiving; I went down to Hopkins' wharf, and got a piece of lime for Dr. Webster, which he had asked for on Tuesday, when he gave me the turkey. It was as big as my head; it was nothing unusual for me to get lime for him.

Court adjourned until half past three o'clock.

AFTERNOON.

Examination of Mr. EPHRAIM LITTLEFIELD, *resumed.* — Tuesday morning, November 26th, after I left Dr. Webster's room and went out, saw Messrs. Clapp, Kingsley, Fuller and Rice, come in by the shed. Mr. Clapp said he wished to speak with me. Said he, "We are going to search every foot of land in this neighborhood, and wish to search the College, so that people around may not object to having their houses searched." I told him I would show

him all parts of the College to which I had access. We then saw Dr. Jacob Bigelow in the entry. We all went into my parlor and talked. Dr. Bigelow said, "Show them everything." Some one said, "Let us begin with Dr. Webster's rooms."

I went to the door leading to my cellar, and it was fast. I told them we must try the other way. Went up to the lecture-room door, and found it locked; rapped as loud as I could with my knuckles. Dr. Webster came and unbolted the door. I told him what the officers were there for. We all passed in, and down into his lower room. I think Mr. Clapp went toward the small private room. Dr. Webster said that was the room where he kept his valuable and dangerous things. I hardly ever went into that room. Mr. Clapp did not search that room. We all went down the laboratory stairs. Mr. Clapp looked into a pane of glass in the privy door, and asked, "What place is this?" Dr. Webster was then within three feet of him. I told him "That is Dr. Webster's privy; no one has access to it but himself." Dr. Webster seemed to me to withdraw their attention to another part of the room, and unbolted another door, that led to the store-room. We all went out.

Some one wanted to search the vault where the remains of subjects are thrown. I told them there was nothing there but what I had thrown in myself; no one else had access to it; it was always locked, and I kept the key of it. The vault is a room sunk below the College floor, twelve feet square; the entrance to it two feet square, and secured by strong locks. We unlocked the access to the vault, and lowered a lantern into it. All seemed satisfied that there was nothing there which did not belong there.

We searched over the whole building; then some one asked if there was any way of getting under the building. I told of the trap-door; we got lights, and went down. Fuller and I crawled across to the back side of the building; there was nothing there but dirt, put there when the building was made. I pointed Fuller to the wall dividing off what was under Dr. Webster's laboratory. I told him that was the only place which had not been searched, and there was no access to it, except by breaking through the floor, or digging through the wall. They then searched my room.

In the afternoon of the same day, about four o'clock, I was in the front cellar, under the front steps. I heard Dr. Webster open the door and come in. About two minutes after, being in the entry, I heard him come down the laboratory stairs, and unbolt the door leading into my entry. When I heard him unbolt his door, I went into my kitchen. As soon as I went in, I heard his bell ring.

I was in the cellar in the forenoon, Thursday. My wife wanted me to remove the grape-vines, which were getting scattered about; I attempted to get them into Dr. Webster's room, but could not open the door. Went to work on the wall about three o'clock, to get under Dr. Webster's laboratory near the privy, to satisfy myself and the public. I could not go outside of the building without everybody being at me, saying that Dr. Parkman would be found in the Medical College, if he was ever found anywhere. That was the only place not searched. I went down the front scuttle; all the tools I had used were a hatchet and mortising chisel. I could not do much with such tools; all I did was to get out two layers of brick.

I was gone that night till about four o'clock, at a ball of the Shakspeare Division of the Sons of Temperance, in Cochituate Hall; there were twenty dances, and I danced in eighteen of them. My wife called me about nine o'clock, and wanted me to go to work on the wall; did not get up till she called me to breakfast. After breakfast, Dr. Webster came into my kitchen, and asked me if I had heard anything from Dr. Parkman. He said he had just come from Dr. Henchman's apothecary shop, where he heard of a woman having put a large bundle into a cab, which drove off. They took the number of the cab, and afterward found it all covered with blood. I said there were so many flying reports now about Dr. Parkman, that one did not know what to believe. He went up stairs; there were men there carrying up busts to place in the anatomical lecture-room. Dr. Henry J. Bigelow was there. I asked him if he knew there were reports and suspicions against Dr. Webster; he said he knew there were. I informed him what I was doing on the wall; he told me to go ahead.

In a few minutes, I went into the Demonstrator's room, and there I saw Dr. J. B. S. Jackson alone. I told him what I was doing on the wall. He replied, "Mr. Littlefield, I feel dreadfully about this." [Objected to by the prisoner's counsel.] He added, "Do you go through that wall before you sleep."

Attorney General. Did he give any directions as to what you should do, if you found anything there?

Witness. He asked me what I would do, if I found anything. I told him I should go to Dr. Holmes. He said, "No; go to old Dr. Bigelow's, in Summer-street; then call at my house, and if I am not in, write your name on my slate there; and when I return I shall understand it."

About three o'clock, I went to Mr. Fuller's, and borrowed a crowbar. He asked me what I wanted to do with it; I said, to knock a hole through a brick wall, for Cochituate water-pipe. He said, "I guess you do." What I said was in joke, and I suppose he so understood me. I went home and locked all the doors, leaving the keys inside. I told my wife not to let any one in; but, if Dr. Webster came, to be sure and let him in — but not till she had given four raps on the floor. I blistered my hands in working through the wall; came up and put gloves on. I went and borrowed a cold chisel and hammer of Mr. Fuller; he seemed very ready to lend them.

I got out three courses and a half of brick, the thickness of the wall. I heard soon some one moving over the floor, and four raps on it with a hammer. I came up stairs, and met my wife, who said she was mistaken. She saw two gentlemen coming, and thought one of them was Dr. Webster. They were Mr. Kingsley and officer Starkweather; I came out and saw them. Mr. Kingsley wished to get into Dr. Webster's room. I told him that it was locked up, and I could not get in. Trenholm, with whom I was well acquainted, came up. I told him that I should get through the wall in twenty minutes, and would then let them know.

While I stood there talking, Dr. Webster came in; he went into his room. But while I was conversing with Mr. Trenholm, Dr. Webster came to us and said that an Irishman had offered a twenty dollar bill at the toll-house, to pay his toll of one cent. The toll-keeper thought it strange, and kept the bill, as I understood Dr. Webster. He said

that the Marshal had been to him about it, and asked him if he paid such a bill to Dr. Parkman; but that he replied, he could not swear to it. After he went away, I went back into the building, and Trenholm was to call in twenty minutes or half an hour; my wife was to keep strict watch at the door.

After getting down, I used the crowbar, and not the chisel, and soon knocked the remaining bricks through; it might be five minutes. I had difficulty to get a light through the hole, on account of the draft of air; when I got the light in, there was no trouble from the draft. On holding the light, I saw the pelvis of a man, and two pieces of legs. I came up, and told my wife. She spoke to me first, and asked me what was the matter. [Objected to by prisoner's counsel.]

Mr. Clifford contended that he had a right, as the witness had been charged with a conspiracy, to prove his condition, and he now asked him what that condition was.

Mr. Merrick said the prisoner's counsel did not object to that question, but to his testifying what his wife said.

Witness. I was violently agitated. I locked the trap-door, and went to see Dr. Jacob Bigelow. He was not at home; but Mrs. Bigelow asked me what was the matter. I then went down to Henry J. Bigelow's, in Chauncey-place. He told me to go along with him to Mr. Shaw's, in Summer-street — Robert G. Shaw, Jr's. house We went down into his study. Mr. Shaw sent for the Marshal, and he came. The Marshal told me to go back to the College, and he would soon be there. I went to Dr. J. B. S. Jackson's, in Bedford-place, wrote my name on the slate, and got back to the College before the rest. Mr. Trenholm was there; he had been down and made some discoveries. The hole I dug in the wall was about three feet from the ground, eighteen inches one way, and a foot the other.

The ground under the privy was lower from the floor than the ground in the cellar where I dug; the ground under the privy shelved from the wall. The remains were not perpendicularly under the privy-hole, but thrown out from it forward a little. There is no aperture where the parts were found, by which anything but tide-water can come in. The wall had been pointed with cement the year before. The tide came in underneath through the broken stone placed around to keep the wall from spreading. The receptacle for offal of the dissecting-room was meant to be tight, but lets the tide in; it would not let anything else in or out; the tide soaks through the brick.

Attorney General. You said Mr. Trenholm had been down and made discoveries. How could that be, when you locked the door and put the key in your pocket?

Witness. My wife had a key.

Attorney General. Were you in the laboratory when the Marshal thought he heard Dr. Webster above, and went up with his revolver?

Witness. Yes.

Attorney General. What was the noise?

Witness. It was my wife and children running. I was there when they brought Dr. Webster; went to the door, and saw a carriage and several gentlemen. Officer Spear came to me and said, "We have got Dr. Webster here, and he is very faint; we want some water for him, and to get him into the College as soon as we can." He was altogether supported by the officers; did not seem to have the use of

his legs at all. He looked pale, and I thought he trembled; he complained that they had taken him away from his family, without giving him a chance to bid them good-night.

I unlocked the lecture-room door, and we found the back room locked. They asked me to unlock it. I said they must ask Dr. Webster for the key, for he had it himself. He said that he had been hurried away from home, so that he had not taken his keys with him. I went round through the cellar-door, which Dr. Webster had that day, for the first time, left unbolted, and broke down the door between the back room and lecture-room. They then wanted to get into the small back private room, which was locked. I told them they must ask Dr. Webster for that, for I never had access to it. Dr. Webster made the same excuse for that key.

There were inquiries made for the key of the privy. I told them they must also ask Dr. Webster for that; I had never seen it. Dr. Webster said it was hanging on a nail. We went to the place, and took a key from a nail, but it did not fit. He asked us to show it to him, and then said we had got the wrong key; it was the key of his wardrobe. We could not find the right key; he said he did not know where it was. Then inquired for a hatchet, which usually hung on a nail, by a ring, near Dr. W.'s stove; it was not there. Dr. Webster was asked for it, and said it was in the sink. It was found there, and we broke open the door of the back room. We there found, in a drawer, a hatchet that was wrapped up; and when they were undoing it, Dr. Webster said it was a new one, that had not been taken out of the paper. We went down and broke open the privy. I do not remember whether Dr. Webster was down there or not, when we broke it open. He was much agitated, and asked for water, but could not drink. His hand trembled, and he snapped at the tumbler like a dog, or a mad person.

I went to the furnace, and picked out a bone from it. I was told to let all remain as they were. We went down into the cellar, and passed up the remains on a board to the trap-door, and laid them on the floor. Dr. Webster was brought down near them. Mr. S. D. Parker asked Dr. Gay if these were human remains. He said they were. Dr. Webster was much agitated, and perspired. After looking some time, the parties retired, and officers were left to guard the premises. Dr. Webster's working-dress was a pair of thin overalls and an old coat; have not seen the overalls since the arrest. I think he had on the overalls Monday or Tuesday before his arrest; have always seen him have them on when he was at work.

All the keys I know of the Doctor's having were of his own rooms and the dissecting-room. I know a bunch of skeleton keys were found in his drawer; they were found in his small back room. Know of towels being found in the privy-vault; they were a diaper-roller and two crash towels; the crash towels were marked W. The roller towel I knew; he had had it several years. On Friday, when I washed some glasses for him, I wiped my hands on that towel; I don't recollect that it was marked; I had that to wash for him a good many times. [A bunch of skeleton keys were produced, found in Dr. Webster's private drawers. The prisoner's counsel objected, and asked what they had to do with the case.

The Attorney General claimed that they were accounted for by the

prisoner after his arrest, and were tied to a piece of twine similar to that on the leg of the body found.

The prisoner's counsel still objected, and the keys were withdrawn.]

Mr. Littlefield. I was not present when the towels were found by an officer. I have sometimes been in the dissecting-room, and got for Dr. Webster a small piece of muscle, as big as my finger, to experiment upon. Other than that, I have never known him have any occasion for anything from the dissecting-room. I have heard noises from him from explosions of pistols by galvanic batteries, and bladders filled with gas; by filling and setting fire to them, they would go off as loud as cannon. I helped to hang them up, fix them; used to stay to hear him explode them.

[The towels, as they were found in the vault, were shown the witness, and he identified them.

The cross-examination was about to be commenced when the Court adjourned.]

FIFTH DAY. — *Saturday, March* 23.

Cross-examination by Mr. Sohier. What hour, on the evening of Monday, November 19th, was it that Dr. Parkman came to the College?

Mr. Littlefield. It was not dark out of doors, but Prof. Webster had lights. I was in the upper laboratory, and saw Dr. Parkman come in. He went out the same way that he came in. When he came in, I was standing by the stove. Dr. Webster was at his table. When he first spoke, Dr. Webster seemed surprised. Dr. Parkman said, "Are you ready for me now?" or "to-night?" Professor Webster said, "No, I ain't, Doctor." Dr. Parkman accused him either of selling something that was mortgaged, or of mortgaging something that was sold. He mentioned somebody's name; I believe Mr. Shaw's, but can't be sure. Dr. Parkman, as he went out, said, "Something must be done to-morrow." He staid, perhaps, half an hour.

Mr. Sohier. You say on Friday evening, November 23d, you took the broom. Where did you take it from?

Mr. Littlefield. I don't know; there was no particular place for it. Put it back behind the door. Saw the sledge. It was one that a workman left. It was a sledge, I supposed, for breaking up stone. It was left by a mason, who came to tear down a flue. Saw the sledge after the workmen were there, but never saw it before. Did not know that it was sent from Cambridge. The two faces of the sledge were rounded. Did not say that one was flat, and the other rounded. Never used the sledge. Searched for the sledge all over the building, and under the building, after Dr. Webster's arrest. There was a smaller sledge there, weighing two or three pounds. That is there now.

I dine at one o'clock, during Dr. Holmes' lecture. I said before, I dine just at one, and he begins his lecture at one. I ring his bell first. Was detained, on Friday, November 23d, by examining Dr. Holmes' tickets. Suppose it took me fifteen minutes. Took the tickets in my hand. Stood there till the class went in. They made a considerable rush; recollect I got crowded out of the door two or three times. Several students usually remain in the chemical lecture-room for some time after the hour, and I waited for them.

On the same Friday noon, when I lay down on the settee, the

door shut after me in Dr. Ware's room. The door shuts itself, and shuts hard. Remained there till three or four minutes of two. Did not go to sleep; did not lay there long enough to get asleep. Reclined, with my head on the arm.

On Friday afternoon, thought I heard some one walking in the laboratory. The sound might possibly have come from the dissecting-room. Stood near the door, and tried to get it open. Can't say what I was listening for. Put my ear up to the door, and heard the water run. Have recollected it ever since. Heard footsteps; went back up stairs, and tried that door. When Dr. Webster came down, he passed within a foot of me. Did not speak to me, nor I to him. Left home that night about six o'clock. Was not ready to go to the party when I saw the doctor. Can't tell precisely what time it was. Tried the doors after Dr. Webster passed, and before I went to the party.

Tried them, in order to get in. I do his work, wash the glasses, sweep up, and prepare for fires; it takes sometimes half an hour, and sometimes an hour; sometimes it is dirty work. Recollect examining the doors after I came home; shut the dissecting-room door, and it locked itself. The lights were out before I tried the doors of Dr. Webster's apartments and found them bolted. Tried all the doors but that of the lecture-room up stairs; that I did not try. Out of this room there are two doors. One was never used; it has two locks; Dr. Webster keeps the key; I have no key to fit the upper lock. There is no slide in the door. There is a slide over the sink, that is fastened with a clasp inside, and buttoned the other side. This is not usually open. On Thursday night previous to the disappearance of Dr. Parkman, was at a ball, and got home about one o'clock. Was in Prof. Webster's rooms on Thursday afternoon, to do his work. Do not know that I was there in the night. I got home about one o'clock. I do not know that I was ever in Dr. Webster's rooms after he left.

[Mr. Sohier asked if he had not been in his rooms for playing cards, or gambling, in the night; and he declined to answer the question, but added that he might reply to it, if the time was specified.

He was also asked if he remembered the time when Prof. Webster found out this fact, and what he did. He said he did not know, but he never said anything to him about it.]

The water was kept running all the week. I drew off the pipes after he had gone, to prevent freezing. We used to get water there, to keep them free. I put the glass pipe under the sink, to draw the water off. I put it there after Dr. Webster was arrested. I put one there before, but it was not of glass; but he forbade me doing it. I changed my testimony before the Inquest about the turkey. I stated that it was on Wednesday that he gave me the order — about four o'clock.

Mr. Sohier. Did you testify before the Coroner's Inquest that the order for the turkey was given on Wednesday, before or after the examination of the rooms?

Mr. Littlefield. The order for the turkey was given on Tuesday, and I examined on Wednesday.

Mr. Sohier. But did you testify that it was before or after you examined his rooms?

Chief Justice Shaw. You are assuming something that he has not testified.

Mr. Sohier. May it please your Honor, he testified before the Coroner's Inquest.

Chief Justice Shaw. He has not testified that he made the examination on the same day, on Tuesday, that the turkey was ordered.

Mr. Sohier. The Court somewhat misunderstands my question.

Chief Justice Shaw. You inquire whether it was before or after.

Mr. Sohier. He has now stated that he made the examination of Webster's rooms on Wednesday afternoon. He has also now stated that Dr. Webster, on Tuesday, gave him an order for the turkey. He now states that he stated before the Coroner's Inquest, that it was given on Wednesday. And I ask whether it was before or after he made the examination of the rooms, that he stated, before the Coroner's Jury, that the order for the turkey was given.

Chief Justice Shaw (to the witness.) You now think this turkey was given on Tuesday?

Mr. Littlefield. It *was* given on Tuesday.

Chief Justice Shaw. Had you then been into the rooms to make the examination?

Mr. Littlefield. I went in on Wednesday.

Mr. Clifford. He corrected it before the Grand Jury, when he said that the turkey was given on Tuesday.

Chief Justice Shaw. The mistake was, then, in considering that the order was given on Wednesday.

Mr. Littlefield. If I stated at all before the Coroner's Jury, I said that the turkey was given after I made the examination of his rooms; it must have been after. I wrote down my testimony before the Coroner's Jury, after I had been before the inquest; wrote down the heads of it. I have it written down that Dr. Webster came to his rooms on Wednesday, after I made the examination, went down the back stairs and rung for me. I don't know how I came to get Wednesday and Tuesday confused in my mind.

I made no other mistake, that I know of, in regard to the transactions of Wednesday. First began to arrange in my mind all these circumstances after Dr. Webster's arrest, and all along the week before. Began it on Sunday night, November 25th. I then told my wife I was going to watch every step he took. I made this remark as soon as I had the interview with Dr. Webster; and told my wife my suspicions, and that I meant to watch. I did not know that a reward was out until Monday. I assisted, on Sunday, in searching the building. Never said that I meant to get this reward, *and I defy you to prove it.* Never said anything to Dr. Webster about it. I did not make memorandums till after I was before the Coroner's Inquest. Said my suspicions were excited Sunday night. Stated in my direct testimony all the circumstances that excited them.

When I saw Dr. Webster, he was right abreast a house called "Suke Bryant's." I was not standing on the sidewalk. When he went to the College, he walked on the platform. If he had come to me, he must have crossed the street, to where there ought to be a sidewalk, but there is none. This was about sundown. I said I examined his face very closely, and it looked pale. He did not look at me when he struck his cane on the ground. I then suspected him of having something to do with the disappearance of Dr. Parkman Dr. Webster said, "That was the very time I paid him $483 and

sixty odd cents." He said he counted the money down on his table, and Dr. Parkman snatched it up, without counting it, and said he would go over to Cambridge and get the mortgage cancelled. Dr. Webster said something about meeting some gentleman about the matter, but cannot recollect what.

The next day my wife told me that Dr. Samuel Parkman had just gone up. I went up, because my wife said he wanted to see me. I then had suspicions of Dr. Webster. I do not know that I then had anything in my mind particularly about what took place between me and Dr. Webster on Saturday evening. Did not stop there half a minute. Do not know that I thought over everything that I had seen of Dr. Webster at that moment, but was thinking of it about all the time. I had suspicions of Dr. Webster on Monday morning. I suspected that he had dealt foully with Dr. Parkman. Went down stairs, to go about my business. Could not go through the lecture-room without jamming by Dr. Webster and Dr. Parkman pretty hard. It was but a short time before Mr. Blake came; it was not half an hour. I went round, and went up stairs, and found Dr. Webster in his lecture-room. I opened the door of the lecture-room.

Mr. Kingsley came about twelve o'clock, I think. At that time he was let in at the lecture-room door. Mr. Starkweather was with Mr. Kingsley—nobody else. I went in with them. The Doctor came and opened the door, and put his head out. We all went in together to the laboratory, but I cannot tell whether Professor Webster went behind or before. I went round with the officers; was watching Dr. Webster some — seeing how he appeared at that time. I believe I went into the back room, and they all followed me. I don't know whether Dr. Webster went down or not. I let them out at the lower door, and went with them. Can't say whether I saw Dr. Webster this day again or not; I heard him in his room, but can't say at what hour.

Early on Monday evening, November 26th, I went down to Mr. Grant's dancing academy. Tried Dr. Webster's rooms before I went down; tried them all the afternoon. Wanted to get in and do up his work; that was all my object.

I did not see Dr. Webster go in on Tuesday, November 27th. I unlocked his door at half past nine or ten, and saw him at work. I passed down to his table, and he went towards his back room. I looked in, and saw he had a fire; asked him if he wanted a fire in his furnace, and he said no, his lecture for that day had some things about it that would not bear much heat.

The officers came to make examination about eleven o'clock. Dr. Webster let them into the lecture-room himself. I went down stairs with them, and the Doctor went down also. I don't recollect hearing the Doctor say a word in the upper room, except the remark about his little room. After he went down, there was something said about a whitewashed pane of glass. I thought, at the time, that Dr. Webster tried to lead them away from the privy. When Mr. Clapp asked what place was that, Dr. Webster started right off to the door at the front part of the laboratory, leading into the store-room, and said, "Here's another room." This was after I said that Dr. Webster had the key of the privy. Then I went out into the store-room. Thought this was suspicious. Went out into the entry. The key of

the dissecting-vault was set up on end near the corner of the vault. That is a dark corner. I saw no more of Dr. Webster till afternoon.

When I saw Dr. Webster go up, I went into the entry, to see if I could get into the laboratory. Was not standing in the place where I was when he came; it was not to watch. I went back, to see if I could hear him come down the laboratory stairs. The bell then rung; I cannot say whether it was the upper or the lower bell that rang. I went directly up. Found him in the upper laboratory; think it was about four o'clock. I went down to Foster's after that, and judge from the time that it took me. Did not see Dr. Webster after I came back.

Never went in at the window before Wednesday afternoon, November 28th. There is a window between my room and the Doctor's store-room; it is nailed in strong. The bolt on the Doctor's door is on the outer door. I might have said, before the Coroner's Inquest, that I did not see the Doctor until about six o'clock; but this was owing to the mistake I made about the turkey. After I came back with the turkey, on Tuesday, it might have been a quarter before six before I saw Dr. Webster. I came home, and stopped in the kitchen and took my tea, and fixed myself, as I was going out.

The interrogations about Freemasonry were after I got the turkey. Can't say that I tried the doors after I came from Mr. Foster's till I came back from the Lodge. It was pretty late before I came home. The Lodge did not close till after eight. I stopped over an hour, after that, in Bowdoin-square. Do not know that I tried the doors again that night. Had not washed the glasses after Friday. Emptied out the water and washed them, after his arrest. Don't recollect that I said, before the Coroner's Inquest, that I heard some one in the laboratory near one o'clock. Don't recollect that I did hear anybody there then. I said, before I went to peep under the door, I went to listen. That was before I went out at nine o'clock. The Doctor told me, on Tuesday, that he should not want any fire. I knew that he always wanted very hot fires. It was a cold morning, and I thought it very strange that he should be in his room without a fire. Did not state, as I recollect, before the Inquest, that I heard any one in on Wednesday, at four o'clock, before I went in. Was not long watching. Heard him making a noise, and heard him step. This was before I saw the coal-hod.

I can't tell which way he was moving the coal-hod on the floor. I testified, and I tell you now again, that I heard the coal-hod moving on the floor; I afterwards saw him carrying the coal-hod. I could not tell what was going on. I thought it very strange when I found the heat on the wall. My reason for getting in was, that I thought the building was on fire. I said there did not appear to be much fire there.

I felt the heat by the side of my face. I put my hand up perhaps half a foot higher than my head, and felt on the wall. Should think the furnace was three feet above the floor. The flue runs up, and that was the place where the heat came from. Dr. W had told me never to take anything except what he left on a particular table, where he left his things for me to clean. That was my reason for not removing anything. There were some crucibles, but none full. The soapstone cover was covered with crucibles and minerals. The minerals were all out of the papers. The furnace was pretty hot. I cannot say whether there was fire, but the bricks were hot.

The hogsheads were fixed to make gas in, but had not been used. I took a broom near the door; I did not know but Dr. Parkman might be poked into the hogshead. I did not expect to find anything in the furnace. Can't say what kind of a lock was on the privy. I have sixteen keys. I did not try to get into the privy. Probably, if I had a key that would fit it, I should have unlocked it. I should not think it was a very common lock or key; did not try to open it; made no attempt to find any key that would fit it; did not stay there over ten or fifteen minutes. That night I went down to a cotillon party. Made no attempt to get a key for the privy.

I went up stairs into the upper laboratory. Thought the spots on the floor were suspicious. Noticed the spatters on the wall and paint. Can't say what color they were. Noticed the spots on the stairs more than anything else. Thought it was blood, and something had been put on it to conceal it. Saw the spots on the upper laboratory floor that I thought were suspicious. Did not try the little private room; never had any access to that room. Could not get into the lecture-room without breaking the door. Told my wife of the discovery of the remains immediately; told Dr. Jackson and Dr. Bigelow of it on Friday, November 30th. Tried the doors on Thursday, to see if I could not get in. Did not see him on Thursday. Can't tell you exactly where I was Thursday forenoon. Don't recollect that I tried to get in on Thursday. Had communicated my suspicions to Dr. Hanniford on Tuesday evening. The first man, after Dr. H., to whom I communicated them, was to a person that works for me, by the name of Thompson. This was on Wednesday night.

I did not tell my suspicions to anybody else, except my wife, till Thursday morning, when I spoke of them to Mrs. Harley, who went and got the tools for me. That was when I first went to dig through the wall. I told Drs. Jackson and Bigelow of them on Friday, November 30th.

Was at the party Wednesday night, November 28th, till ten, or half past ten. I first mentioned to Mr. Fuller that we could not get under the privy any way but by making a hole through the wall.

[In answer to a question why he did not go down through the floor the same as he did when he covered up the dissecting vault, witness said he did not wish to take up the floor of the passage-way to the dissecting-room, where the students were continually passing.]

There was not a brick on the floor but was laid in mortar. I saw the bricks when they were laid. They were laid in mortar, the same as in a chimney. The mortar was laid in the under floor, and the bricks bedded in it. Sand was spread on the floor afterwards, to fill the cracks between the bricks.

The remains, when I first saw them, might have been two or three feet from a direct line with the hole in the privy. I did not go in, but only put my head in, till I went for Dr. Bigelow. Have seen the silver-sheathed knife; saw it about the premises frequently. Saw it in the back private room. Dr. Webster kept his tools there. I never saw the jack-knife from the time Prof. Webster showed it to me till after it was taken from the tea-chest. Did not hear Prof. Webster say he got it to trim grape-vines. Never had occasion to help him cut corks. Did not get any blood for Dr. Webster during this course of lectures. I don't recollect whether he ever had blood at any former lecture. Never had any particular knocks or signals to get

into his room. If any one wanted to see him, I would knock on the door, if I found it bolted. I sometimes found it bolted.

The reason I did not knock was, that if he chose to keep his doors locked from me, I did not choose to knock. I do not know that I ever tried to get in when his doors were fastened.

I wrote down the heads of my testimony after I had been before the Coroner. I tried to be correct before the Coroner. I saw Mr. Merrill, and corrected my testimony about the turkey; but I don't recollect that I made any other. I may have made some minutes before the Coroner's Inquest, but don't know. I kept them to look at. Never made a new set. Never wrote them off but once. I have read my testimony before the Coroner's Inquest a number of times, but can't say how many times. I kept it in a drawer. I never had a copy of my statement before the Coroner. I had my own minutes. I never read a word in that book that contains the Coroner's Inquest. What I read was my own minutes. I never heard it read. I did not want to read it. I could recollect it myself.

[Here Mr. Sohier read his statement before the Coroner, in which it was said that he felt the heat on the wall at four o'clock on Wednesday, and *heard some one in the laboratory;* and asked him if he had said that. He said he did not know that he had. Mr. Clifford said there was false punctuation in that document, which altered the sense. Chief Justice Shaw said the proceeding was irregular.

Judge Merrick proceeded with the cross-examination. He showed Mr. Littlefield an advertisement of a reward, and asked him if he saw it at the time it came out.]

Mr. Littlefield. I saw one like it on Monday, and carried it to the Demonstrator's room, and showed it to Dr. Holmes. Saw them sticking up all about the College, more than any other place. Cannot tell how early I saw the second one.

I went over to East Cambridge with those who were in search of Dr. Parkman. I asked the toll-man if he was the one that saw Dr. Parkman go over on Friday. Do not recollect saying, at that place, that I saw Dr. Parkman go in or come out of the College. Did not say, at that time, that I saw Dr. Webster pay Dr. Parkman any money. I did not say that I knew Dr. Webster did pay money to Dr. Parkman. I do not know that I saw a person by the name of Greene at that time.

By Mr. Clifford. I never have made any claim to any reward. I have said that I never had made any claim, and never should. I say now that I never shall claim it. I had the heads of my testimony written down, and was reading it over to my wife, and she told me I had made a mistake about the turkey. I went right down to Mr. Foster, and inquired, and found on his books that it was Tuesday. I then went to Mr. Merrill, one of the Coroner's Jury, and told him, voluntarily correcting it.

I signed two depositions before the Coroner's Inquest. I was before the Coroner's Jury nearly two days. [Mr. Clifford said the attention of the Jury was called to some cuts or hacks in the sink on the laboratory floor where the hatchet was found, and asked Mr. Littlefield when he first saw them; and he said he first saw them on Saturday after Dr. Webster's arrest.] Keys of the front doors were found in Dr. Webster's apartment after his arrest. I never knew that he had

one before. They might have been there, but I never saw them before. There is a hole in the bottom of the sink, so that, when the water runs into the sink, it will immediately run off.

By Mr. Sohier. The chip cut there was done by an officer. The sink was made to let off water when Dr. Webster was making gas. The sink was sometimes used for breaking up ice. Don't know whether the other Professors have keys of the outside doors.

ANDRIX A. FOSTER, *sworn.* — Am a provision dealer in this city. Remember filling an order from Professor Webster to Mr. Littlefield. It was Tuesday, November 27th. Think it was from three to four o'clock. The order was torn up. Mr. Littlefield brought an order, at the same time, for some sweet potatoes.

[Mr. Clifford showed him a transcript of the charge of the turkey, to which he testified.]

A week or two after this, Mr. Littlefield came in and inquired what day he brought the order, and I told him.

MRS. CAROLINE N. LITTLEFIELD, *sworn.* — I am the wife of Mr. Ephraim Littlefield, the janitor of the College. We occupy a part of the basement of the College. I knew Dr. Parkman by sight. I think I heard of his disappearance on Saturday. I know I heard of it Sunday, because my husband told me. On Sunday afternoon, after tea, Mr. Littlefield went out. He came in, and beckoned me from the kitchen to the bed-room. He said he believed that Dr. Parkman was murdered by Dr. Webster. I said, "For mercy's sake, what makes you think so? Don't you ever mention such a thing again. If the Professor should hear of it, it will make trouble for you."

The reason I gave him for saying so was, that if the Professor should get hold of it, it would make trouble for him. I do not know that I had noticed anything unusual before this, but after this I recollected that the door by the laboratory stairs, which was usually left open, had been fastened since Friday afternoon. Some time before, Dr. Webster asked me if I would not get water from his pipes, because he wanted it used. This gave me occasion to pass through that door. Some time about four o'clock, on Friday afternoon, I sent my little girl to get some water there, and she came back and said she could not get in.

I told her she must be mistaken, for that door was never fastened. I went, and found it was fastened. On Saturday, also, I recollect the door was fastened. I know, when I went to get a pail of water for breakfast, it was locked; and I cannot tell how often afterwards I noticed it. We could obtain the same water from the cellar; but as Dr. Webster had requested me to get water there, I thought I would. I don't recollect about Sunday; but on Monday morning, between nine and ten, Dr. Samuel Parkman came to my door, and inquired if Mr. Littlefield was at home. I told him he was somewhere in the building. He asked if Prof. Webster was in, and which way he could go to see him. I told him he could go by the way of the door leading from our cellar, if the door was not fastened. I went, and found it unfastened, and showed him up stairs.

A short time after, I went for some water, and found the door fastened. Never tried any other door than the one that leads from our cellar into his laboratory. I think it was that same forenoon that Mr.

Sawin, the express man, came with a bundle of grape-vines, a box, and a bag, and left them in our part of the cellar, where he never left anything before, because he always took them into the rooms of Prof. Webster. When the Professor was out, there were keys by which he could get in. I don't know why he could n't get in that morning.

On Thanksgiving day, I asked Mr. Littlefield why he did not take those grape-vines and carry them into the laboratory; and he said he could not get in, for the doors were all locked. Mr. Littlefield took hold of the door, and shook it, and said, "You see I cannot get in." The grape-vines were in my way, and I wanted them removed.

Mr. Bemis. Have you seen your husband attempt any other mode of gaining information about Dr. Webster, except looking through the key-hole?

Mr. Sohier. We object.

Mr. Bemis. The inquiry was, whether she had seen Mr. Littlefield attempt to do anything further to ascertain whether Dr. Webster was there.

Mr. Merrick. It would corroborate your own witness, which cannot be done, except with reference to the search for the body, or unless the witness be impeached. We do not object to offering evidence to show that Mr. Littlefield did try the doors; but if you propose to show that Mr. Littlefield was lying down, we object.

Attorney General. I suppose that anything which goes merely and exclusively to corroborate Mr. Littlefield is not admissible; but that any fact which goes to show that Dr. Webster was in his room, or anything which she witnessed showing that there was difficulty of access to his apartments, is proper.

Mr. Bemis. And we offer it no more to prove that Mr. Littlefield did this, than to prove that any other independent person was looking through the key-hole.

[The Court ruled, that anything she *observed* might be stated by the witness, but not her conversation with other persons.]

Mr Bemis. Did you see Mr. Littlefield attempt to do anything, in order to get into the building?

Mr. Merrick. We object.

Mr. Bemis. Supposing that Mrs. Littlefield had seen Mr. Littlefield go round and try to get into the room, I think it could be testified to.

Chief Justice Shaw. What was done or seen, can be testified to.

Mr. Bemis. Did you see Mr. Littlefield lying on the floor, near Dr. Webster's door?

Mrs. Littlefield. I did not see him lying down. I only saw him listening at the key-hole; and when he saw me, he came away.

Did not see him go into Prof. Webster's rooms on Wednesday. Mr. Littlefield was in the habit of making fires in Prof. Webster's rooms. I do not know that he built any fires there after the disappearance of Dr. Parkman till Dr. Webster's arrest. Know that my husband goes out to build fires, but do not follow him. I saw Prof. Webster pass through the entry Monday, Wednesday and Friday. Wednesday morning, he came quite early, as early as eight o'clock. I saw him pass through the entry. He did not go through into the laboratory.

On Friday morning, Dr. Webster came to the College, I cannot say

precisely what time. We were late at breakfast. Dr. Webster came in, and said, "Have you heard anything new about Dr. Parkman?" My husband replied, "No, I have not."

(My husband went for tools on Thursday, and I saw him bring an axe.) Professor Webster said that at Dr. Henchman's he had been told there was a woman who had seen a large bundle in a cab, all bloody. ( ) I know Mr. Littlefield commenced digging the hole in the wall on Thursday. I saw him go down. I should think he was there about an hour. About three o'clock, on Friday, he went to work again. The doors were all locked. While he was at work, I watched for Dr. Webster. When he had been down there about half an hour or three quarters, I thought Dr. Webster was coming.

I had a hammer, and was not to let him in till I had struck four times. I struck four times, when I thought I saw Dr. Webster, and Mr. Littlefield came up; but it was not Dr. Webster.

While he was out, Dr. Webster came in, and went through the entry; and he took the grape-vines, and went into the laboratory. I heard him unbolt the door. Then he left the door unlocked, as he usually had done before the disappearance of Dr. Parkman. He left the door a little ajar. Dr. Webster went out, and Mr. Littlefield went down and went to digging again.

While Dr. Webster was in, Mr. Littlefield was out talking with the police officers. He had not been down but a short time; it did not seem more than ten minutes. When he came up, he seemed very much agitated — more so than I ever saw him before. I said —

Judge Merrick. We object to conversations.

Mr. Clifford. I think, may it please your Honor, that it may be a matter of some consequence, in the course of the cross-examination, for us to show, not only by Mrs. Littlefield, but by Dr. Bigelow, and other persons, certain facts, which consist partly in appearances, and partly in conversations, but which are, nevertheless, facts — facts having material bearing upon this issue. If it is attempted to be intimated here, under any pretence, that Mr. Littlefield assumed to have found those remains, or anything which implicates him, it is most material to show what his appearance was when that discovery was first made — what he did when he came out of that cellar, in reference to this subject-matter, and when he found Dr. Bigelow. They are matters of fact, and not matters of relation. They are a part of the *res gesta*, — substantially so, at least. Suppose the Jury to be satisfied that these remains were those of Dr. Parkman, it appears, from this evidence, that they must have been there either according to the knowledge of Littlefield or Webster. Now, the conduct of Littlefield, at first, is important; and it is proper, as much as the language of a person when he comes away from a place in which it is charged he committed homicide. Would it not be admissible for him, in such a case, to produce testimony as to what he said at first, if he is to be tried for the offence? I can see no difference between such a case and one like this, where a man is the witness and not the defendant.

Judge Merrick. We had supposed that precisely this question would be taken up. Mr. Littlefield was called upon to testify as to what he said. We have not objected to that, but we have objected to other conversations. We have objected to Mrs. Littlefield's testi-

fying as to what she said, and the Court sustained us; and we can see no difference between that ruling and the ruling asked for now.

Chief Justice Shaw. It appears to us that his manner and conduct, and appearance, are competent, but not his conversation.

Mr. Bemis. State, then, what was his manner, when he came up from the discovery of this body.

Mrs. Littlefield. He was much affected, and burst into tears.

He did not go right away. He locked the doors, and went away. Mr. Trenholm, the police officer, came while he was away, and inquired for him. Cannot tell how long after Mr. Littlefield went away. I unlocked the door with another key. Mr. Trenholm went down. He was not gone more than five minutes, I should think.

Mr. Trenholm remained till Mr. Littlefield and Mr. Clapp came. No one else went down while Mr. Littlefield was gone; I was about the house. Afterwards I went to my room, my little boy and girl following me; locked myself in. I went out into the back cellar, after a pail of water, while the officers were down. I did not see any bed-clothes brought there by the express man.

Cross-examined by Mr. Sohier. I recollect distinctly going in the cellar for water. Did not say a bag of tan was left, for I did not know what was in it. Dr. Webster was there somewhere about four o'clock, but he staid but a very few minutes. Did not see him take the things in, but saw them there before he went in, and they were not there afterwards. Mr. Littlefield brought home a turkey, and I asked him where he got it, and he said Dr. Webster gave it to him. I corrected him as to the mistake he made in the time.

JOHN MAXWELL, *sworn.* — Live in Fruit-street Place, beside the Medical College. Know Mr. Littlefield. Knew Dr. Parkman. Mr. Littlefield got me to take a note to Dr. Parkman, about twelve o'clock, some day the fore part of the week that Dr. Parkman was missing, and I carried it. I delivered the note to Dr. Parkman.

JOHN E. HATHAWAY, *sworn.* Am engaged at the Massachusetts Hospital; have charge of the medicines. Mr. Littlefield made application for blood on Thursday, the week before Thanksgiving. I did not furnish the blood. I fixed the date simply by the fact that there was but one chemical lecture more that week.

[Judge Shaw cautioned the Jury, as they had heard but one side of the question, against making up their minds. The Court then adjourned till Monday morning at nine o'clock.]

SIXTH DAY. — *Monday, March 25.*

SARAH BUZZELL, *sworn.* — I know Mr. and Mrs. Littlefield. I am a niece of Mrs. Littlefield. Made a visit to them the 19th of Nov.; went home the 27th; belong in Connecticut. Heard of Dr. Parkman's disappearance on Friday afternoon. Heard people talking about it Friday night, Saturday, and Sunday. Went to the door Friday, between four and five o'clock — to the front door — to let a person in; did not then know who it was; have since ascertained it was Mr. Pettee. It was on the 23d of November, the day of Dr. Parkman's disappearance. I was sitting in the kitchen, and heard the door-bell ring. As Mr. Littlefield had lain down, I went to the door. The key was

not in the door, and I did not know where to find it. The door was locked. Looked through the side-light, and saw a gentleman at the door; I mean the great door, at the top of the steps. Told him that Mr. Littlefield had lain down, and if he would go round to the other door, I would call him. He went down to the other door, in the shed, and I called Mr. Littlefield. As I was passing through the entry into the kitchen, saw Mr. Littlefield come out of the bed-room door. He was then in his stocking feet. I then passed into the kitchen. Mr. Littlefield went to the door.

Cross-examined by Mr. Sohier. I recollect that I was sitting, reading; and recollect that Mr. Littlefield had lain down after the lecture. My attention was called to it by hearing Mr. Littlefield and my father talking about it, and that called it to my mind. I had not heard of the disappearance of Dr. Parkman, when I went to the door.

Joseph W. Preston, *sworn.* — I am a student of medicine; have been in attendance upon the last course of lectures. I saw Dr. Webster after the lecture on Friday, November 23d, I think about six o'clock. I saw him about eight or ten feet from the carriage-shed, on the east of the building. He entered the shed. I saw him go in. Can't state whether he entered the College or not. I am confident it was Friday night, the 23d of November. I was passing out of the dissecting-room entry, and was going by the shed.

Cross-examined by Mr. Sohier. The shed is on the opposite side of the building from the dissecting-room. I was passing from the dissecting-room, on the plank walk in Fruit-street. Dr. Webster passed near me. I spoke to him, and he bowed. I went through Fruit-street Place. I fix this to be Friday, because I was to meet two young men on Hanover-street. I had met them there on Thursday night. They were expecting some one from the country, and I told them I could only meet them there that night. Thought it remarkable to see Dr. Webster at that time. Spoke of it as remarkable, to Mr. Richardson, a member of the bar, not far from Thanksgiving day. Can't say whether before or since Dr. Webster was arrested. Fix the hour by the fact that I usually had tea at half past six o'clock, and was to meet these young men at seven o'clock. I had just come from the dissecting-room. Left some students there; can't say how many.

By Mr. Bemis. I never had seen Dr. Webster there before, at that time of the day. I had frequently been from the College as late as that, and had never seen Dr. Webster pass there as late as that, any other time. This was my second course.

William Calhoun, *sworn.* — I work for Mr. Fuller, the iron-founder. Know Mr. Littlefield. Live at the corner of Fruit and Bridge streets. Recollect the time Dr. Parkman disappeared. Remember seeing Dr. Webster the first Sunday after Dr. Parkman was missing. Saw Dr. Webster in front of the College, in Fruit-street. I was with Mr. Littlefield, talking with him. Dr. Webster was about twenty paces off, coming down Fruit-street. I had no watch; I think it was about four o'clock. Dr. Webster came up to Mr. Littlefield, and said, "Mr. Littlefield, did you see anything of Dr. Parkman, the latter part of last week?" "Yes," said he, "I did." "Whereabout did you see him?" "Near the ground we now stand on." "Which way was the Doctor coming?" Mr. Littlefield answered, "He was coming towards the College." "Where were you when you saw him?" Mr. Littlefield replied, he was in the front

entry of the College. He also asked Mr. Littlefield if he saw him enter the College. Mr. Littlefield said he did not; he went into the College, and sat down in one of the rooms. Dr. Webster asked what time he saw Dr. Parkman. Mr. Littlefield answered and said, "About half past one o'clock." Dr. Webster said that about that time he had paid Dr. Parkman $483, in his lecture-room at the College, and that the Doctor never stopped to count the money; but, as I understood it, either grabbed it up, or wrapped it up, and ran off; and, said he, "I told him, 'Doctor, you must go over to Cambridge, and have this mortgage cancelled, and have it all done up in good shape;' and that was," said he, "the last I saw of him." I did not understand whether he said the Doctor made any answer to it or not. I can't say how Dr. Webster looked. I am not acquainted with Dr. Webster's manners and customs.

Dr. Webster had a cane. I saw him put it down on the ground several times. Dr. Webster stood with his face to the College. Mr. Littlefield was standing a little one side, and Dr. Webster and I were facing the College.

Dr. John B. S. Jackson, *sworn*. — I am one of the Professors in the Medical College — Professor of Pathological Anatomy. Have known Mr. Littlefield since I have been Professor, and some time before. Remember Mr. Littlefield applying to me about one o'clock of the day of Dr. Webster's arrest. Mr. Littlefield came to my room, and said he could not go into the street without being told that Dr. Parkman was in that building. He did not directly apply to me for leave to do anything. He informed me that he had already partly dug through the wall. I advised him to go on, and finish the opening through the wall; cannot repeat the very terms in which I said it. I told him, if he made any discovery, to go at once and inform Dr. Bigelow, senior, of the fact, and to call at my rooms, in the neighborhood of Dr. Bigelow's house, and leave his name on my slate, if I was not in. I enjoined the strictest secrecy upon him, in case he made no discovery, and pledged myself to the same. I came home, in the earlier part of the evening, and found Mr. Littlefield's name on my slate. I don't know that any parts of anatomical subjects have been used in Dr. Webster's apartments, and probably should not have known, if they had been.

George W. Trenholm, *sworn*. — I am a member of the police. My beat, last November, was in the west part of the city, in the district near the Medical College. I have known Mr. Littlefield for two or three years. Know Dr. Webster. The first time I saw him, after Dr. Parkman's disappearance, was on the Sunday afternoon following, about quarter before four o'clock. I was conversing with Mr. Littlefield, and he came up and said to me, "What about that $20 bill?" Told him I did not know; had not heard anything about it. He then said an Irishman had presented one at the toll-house. — I am mistaken; this was not the day. — I was talking with Mr. Blake — James H. Blake — shortly before four o'clock, in front of the Medical College. Saw Dr. Webster coming from towards the front steps of the College. Dr. Webster spoke to Mr. Blake, and told him the first that he heard of the disappearance of Dr. Parkman he read in the papers the night before.

Dr. Webster said he thought he would come in, and let his friends

know that he had paid Dr. Parkman $483. Said he took the money up and started; did not stay to count it; and that Dr. Parkman told Dr. Webster that he would go over to Cambridge and get the mortgage discharged. I was searching the houses near the Medical College.

On Friday, the day of Dr. Webster's arrest, I was passing by the College, about a quarter before four, I should think, and met Mr. Littlefield, who told me he had commenced digging through the wall, and that he had suspicions of Dr. Webster; he said he had told the officers that every place in the building had been searched but that. He was going to dig through the wall, to satisfy himself and the public, whether there was anything there or not. I put my hand on the laboratory wall, but could not feel any heat then. We went down the front steps, and saw Dr. Webster. It was then he made the remarks about the twenty dollar bill.

He then said that an Irishman came to Cambridge Bridge, and offered a twenty dollar bill to pay one cent toll; and said the toll-keeper thought it rather strange for an Irishman to have a twenty dollar bill. Said the toll-keeper asked him where he got it, and he said he got it of Dr. Webster. He said the City Marshal had the bill, and had sent for him to see if he could identify it. Said he told him that he could not swear to the bill. He then went off. Mr. Littlefield told me to come back in about half an hour or twenty minutes; he thought he should get through the wall by that time. I then went away, and was gone twenty or thirty minutes. Came back, and met Mrs. Littlefield, and asked her if he had come up from under the building. She said he had, and had gone down to see Dr. Henry J. Bigelow. I asked her if he found anything. She then asked me if I would be afraid to go down, and see if he had found anything. I told her I would not. She then went with me, and showed me the direction; she showed me the trap-door. I then took a light, and went down, and crawled up to the place where he dug through; put the lamp through, and put my head and shoulders through, and saw those parts of the body that were afterwards shown to Coroner Pratt.

I then came up, and waited there till Mr. Littlefield returned with the Marshal, Dr. Henry J. Bigelow, and Mr. Clapp. I assisted in taking out the parts. We all went down. Mr. Littlefield and I crawled through the hole. I held the lamp, and passed the parts through. They were laid on a board, as they were passed through the wall. Don't recollect that any entrance was made to the laboratory before Prof. Webster came down. The remains were left there.

I remained till Prof. Webster came down. I was left in charge of the College during this interval. Prof. Webster, and the party with him, came down about eleven o'clock. I and Mr. Littlefield forced the inside door, so that the party could get in. Some one asked for the key of the privy door. Mr. Littlefield made answer, that the Doctor had the key, and that he always kept it himself. The Doctor then pointed to a hook or nail, and said it was up there. I think it was Mr. Starkweather took down the key, and handed it to Mr. Littlefield. Mr. Littlefield and I went down to the privy and tried the key, and it would not unlock it.

We then went back up stairs, and told him that was not the key. Mr. Littlefield told Prof. Webster. Don't know that I recollect what

he said. The door was then broken open. Prof. Webster, while up in the back room, appeared to be confused. He appeared different in the laboratory. He was more agitated down in the laboratory. He called for water, and when they handed it to him, he would bite at it. I remember the inquiry being made about the bones in the furnace. This inquiry was made while the Doctor was in the room.

Mr. Adams, Mr. Rice, and myself, remained in charge of the College all night, and all the next day and night, till Sunday. I left a few minutes at a time. The place was in custody of the police all this time. Heard no instructions in regard to Mr. Littlefield. The place was securely guarded. No such vigilance was exercised in regard to Mr. Littlefield. Inquiry was made, in the little room, for the hatchet, and Dr. Webster said it was in the sink. Inquiry was made for it in the little room. I believe Mr. Littlefield succeeded in finding the hatchet. Was present when a key was fitted to the lock of the privy door. The lock was in the laboratory.

Cross-examined by Mr. Sohier. What Dr. Webster said about the twenty dollar bill, was the first that I heard of it. Dr. Webster was slightly acquainted with me. I was the person he had asked to make some inquiries for him, a week or two before. Think I saw Mr. Littlefield on Sunday. Saw him on Saturday. Mr. Littlefield said he had not seen Dr. Parkman for three or four days. On Friday, the 30th, Mr. Littlefield said he suspected Dr. Webster; told me he did not wish me to say anything about it, till he had ascertained whether anything was to be found. Mr. Kingsley asked Mr. Littlefield, on Saturday, the 24th, whether he had seen Dr. Parkman, and he said he had not seen him for three or four days. This interview was but a very few minutes. Mr. Littlefield did not go on to state where he saw him the last time. When the inquiry was made about the hatchet, we were in the upper room. It was wanted to open the back room door. The nail to which the Doctor pointed for the privy key was in the back room, by the shelves. I did not assist in breaking open the privy door. Was present. Believe the door was opened with the hatchet, which was used to press the bolt back. The lock came off that night. The privy door was nailed up that night. A nail was driven in the side of the door.

NATHANIEL D. SAWIN, *sworn.* — I run the Cambridge and Boston Express. Know Prof. Webster. Have been in the habit of carrying articles for him. I remember bringing in to Boston, the next week after Dr. Parkman's disappearance, two bundles of fagots, made from the cuttings of grape-vines, for Prof. Webster; took them from his house. I brought in an empty box, about the shape of a soap-box, a foot and a half square, and a bag of tan; took them from Dr. Webster's house in Cambridge, and left them in Mr. Littlefield's cellar. Was told to leave them there by Dr. Webster.

Dr. Webster said, "You may leave them in Mr. Littlefield's cellar, and I will take them into the laboratory myself." Had never received any similar instructions before. Had done these jobs for Prof. Webster for three years; suppose I had been to the College two hundred times. It had been my practice to leave them, sometimes in the lower laboratory, and sometimes in the upper. I would take a bunch of keys from Mr. Littlefield's kitchen. They hung in a small case, near the door, as I went into Mr. Littlefield's kitchen.

Monday, when I left these bundles, I tried the door, to see if it was unfastened. Found it fast. Did not know but I might misunderstand about the door. Always went in at the store-room door. I then went into Mr. Littlefield's kitchen for the key; did not find it, and went off. Went there again on the 28th day of November, on Wednesday. Carried two boxes. One about two and a half feet long, ten or twelve inches wide, and a foot deep. The other box was about a foot and a half square. The large one was empty; the other was not.

I left these where I left the others, in Mr. Littlefield's cellar. In the one that was full, there was a little piece split off, and I saw a checked handkerchief. The grape-vines and box that I left on Monday were there on Wednesday, but the tan I did not see. I went to the College, to see if I could find the boxes, and I could find only the small one. That was on Monday, after the arrest. The two largest boxes I could not find. The boxes were of pine.

Cross-examined by Mr. Sohier. Was frequently in the habit of carrying boxes to the College. When I had business in the laboratory, I always went in.

[The jack-knife was shown the witness.]

Saw the knife on the 17th of November, in Dr. Webster's hand. He was trimming the grape-vines. He had this knife in his hand. He had cut his hand, and it bled. I noticed it as a very peculiar knife. I am positive I saw this knife.

Derastus Clapp, *sworn.* — How long have you been connected with the police?

Mr. Clapp. Ever since 1828.

[Mr. Bemis presented to the witness the two mortgage notes and a paper accompanying them, and asked him if he had seen them before.]

Witness looked at them, and said, — On the 5th of December he was directed to go to Cambridge, and get a Cambridge officer, and search the house of Dr. Webster. I took with me officer Hopkins, and went to Cambridge, and procured the aid of officer Sanderson. We went to the house of Dr. Webster. The two officers went up stairs, and I remained below. This was the second search. I went in pursuit of a package of papers.

In consequence of what had been said to me before I went, I asked Mrs. Webster if she had anything like a package or bundle given her by her husband. In a short time after, Mr. Sanderson brought down some papers. They being articles not named in the search-warrant, I told him to go and put them in the trunk where he had found them, and to bring the trunk down. I then requested Mrs. Webster to take certain papers out of the trunk, and hand them to me; that I wished to carry them to the city, and would give her a receipt, which I did. We soon came away. I had a search-warrant. Mrs. Webster handed to me the package I asked for, though I did not know what was in it.

[The witness now identified the papers shown in Court, as the same that he took from Dr. Webster's house; and said that there was nothing on the papers but what was there when he took them, except his own private marks. Mr. Bemis proceeded to describe the papers as follows:]

There are two notes, one for $400, dated June 22, 1842, and the other for $2,432, dated January 22, 1847, given to the order of George

Parkman, signed J. W. Webster. There is also an account, or memorandum, in Prof. Webster's writing. The signatures of the notes are erased, and also the face of the notes is crossed. A memorandum on the first note states that this was to be given up on the payment of Webster's mortgage of January, 1847.

On the back, 1845, July 10, is the memorandum — "Interest is accounted by receipt, and seven dollars principal, leaving due $393. Oct. 10, $75." On the top of the note there is a memorandum — "$483.64 paid Nov. 23."

The large note was payable in four years, with interest and one quarter of the principal to be paid yearly. This note was witnessed by Charles Cunningham.

Below, in pencil-mark, is a memorandum — "$500 of the above is G. P.'s plus 332 = 832; for balance, see Mr. Charles C."; and on the top of it, "A payment to G. P. of $832. Dr. W.'s other mortgage, and other note to G. P., of June 22, 1842, to be cancelled." Then six words in pencil, "$832.83½."

On the back, Nov. 3, character for 7, "$17.56 as per receipt." Then, in writing, "1848, April 18, received one hundred and eighty-seven dollars 50-100," signed "G. P." "Nov. 11, one hundred and eighty-seven dollars," by G. P., and receipt; and written across, in what would be shown to be the prisoner's hand-writing, "*paid.*"

The memorandum is in the form of a letter, signed "C. C." and addressed to Dr. Webster, showing the amount of his indebtedness to Dr. Parkman, dated in 1849. In pencil-mark, at the bottom, is a memorandum, in the hand-writing of Dr. Webster, stating that the balance due Dr. Parkman, including interest, was $483.64.

The paper was done up in the form of a letter, and addressed to Prof. Webster. There was a memorandum on the back of it, in Dr. Webster's hand-writing, "C. Cunningham, on debt due Dr. P."

[Mr. Clapp now produced a memorandum, which he said he took from Prof. Webster's wallet on the night of his arrest, and put his marks upon them to identify them.] Mr. Bemis read:

"Nov. 9, Friday, rec'd $510.00
234.10 out for Dr. Bigelow.

Cash from Mr. Pettee, $275.90.

Dr. Parkman came to the lecture-room, and staid till students went out. He came to me and asked for money. I told him to call Friday, Nov. 23. He was a good deal excited. Friday, Nov. 23, went to his house and told him to call at half past one, and I would pay him. He called, and I paid him $483.64, and he gave up two notes, and said he would go and get the mortgage cancelled."

[The $234.10 out for Dr. Bigelow, was a note of Prof. Webster's for that amount held by Dr. Bigelow, which was placed in Mr. Pettee's hands, and deducted by him from the amount, $510, which he was to pay Prof. Webster. This left the amount which Mr. Pettee paid Prof. Webster in cash, $275.10.

Mr. Bemis said they also proposed to put into the hands of the Jury two memoranda in pencil-mark, that were taken from Prof. Webster's pocket; one of which was "$483.64." On the other was, "A jug molasses; keys; tin box; paint; solder."]

Mr. Clapp. On Tuesday, 27th, I was directed by the Marshal to go

to the College, and search it through, and also every building in that quarter I could get into. Also, the vacant lands. Took Mr. Fuller and Mr. Rice. Arrived at the College about eleven o'clock.

We entered the College on the east end, through the apartments occupied by Mr. Littlefield. We tried the front door, and could not get in. We then went up the stairs, and tried the door to get into the laboratory. We then went up into the front entry, and tried the lecture-room of Dr. Webster. We were informed that it would be but a short time before Dr. Webster would commence his lecture. Mr. Littlefield rapped with his knuckles; waited half a minute and rapped again, when Dr. Webster came to the door. I informed him that we wished to look over the College. He said the police had made a search before; but if we wished to do so, we could. I have known Dr. Webster by sight for a quarter of a century. I said to Dr. Webster, "We cannot believe, for one moment, that it is necessary to search your apartments." I told him that those persons who had reported that they had seen Dr. Parkman had come to the conclusion that they were mistaken.

We then went down to the laboratory, and passed round. Saw nothing there that attracted much attention. We were shown to the passage that leads to the dissecting-room: on one side there was a furnace, and on the other a coal-bin. While I was near the privy and laboratory stairs, some one called my attention to the other side of the room, and Prof. Webster showed us out into the store-room. We went into the College, to make a nominal search, so that we could have it to say in the neighborhood that we had been to the College I had no suspicions of the College, and did not suppose it was at al. necessary to go there. We went and searched the great vault; held a lantern in it, and saw all around it.

I inquired of him at what time he saw Dr. George Parkman last. I told him that we were about to search all the houses in the neighborhood, and I thought we would begin at the College first.

We went down to his table, where he stands to lecture. He said he saw him on Friday, the 23d of that month, about half past one o'clock, at that place. He came there by appointment. I asked him how much money he gave him that day, and he said he gave him $483. He said Dr. Parkman turned round, and went up, with a hurried step, to the door, and he had not seen him since.

I then went to his back room, and passed in, and looked into the little room; and he said that was where he kept his valuables and dangerous articles.

I went into Mr. Littlefield's apartments, and searched every inch; all the closets, bureaus, clothing — male and female — and crockery ware. We also searched every other part of the College — basement, garret, and under the floor. Then we went and accomplished what I supposed was the main object — searched all the houses in the neighborhood.

On Friday, November 30, about six o'clock, I was summoned to the College, where I met Mr. Trenholm, Dr. Bigelow, and others. I was the first that put a light in where the remains were. After we had come up from beneath, we went into the laboratory. The door was open. There were four or five others. I went forward to the furnace. I found a pan with sand in it; a table stood before it. I in-

quired what that was. The top of the furnace was covered up with pieces of freestone. On top of these were minerals. I inquired what was there. I reached down my hand, and took up a piece of hard coal. There was something that adhered to it, that looked like burnt bone. The Marshal said, "Don't meddle with anything there."

I was soon directed by the Marshal to go to Cambridge. I took a coach, took Mr. Starkweather and Oliver H. Spurr with me, and went to the house of Dr. Webster. We stopped the coach within five or six rods, before we got to his house. I left the officers there, and met the Doctor on the front steps, showing a gentleman out of his house. The gate was open, and I passed in. I spoke to the Doctor before he got into the house, and told him we were about to search the College over that evening, and wished him to be present. He went into the front entry, and from there into the library, and put on his boots, his hat, and coat. When he got out, he said, "I should like to go back for my keys." I told him it was not necessary, as we had keys enough to unlock the College; and he said, "Very well."

I walked with him from the house to the carriage. We got into the carriage, and I tried to have a free conversation with him. We came over Craigie's Bridge. Had some conversation about the railroad; also, with regard to the efforts that had been made to find the body of Dr. Parkman. I told him what distances we had sent to trace out the reports of his having been seen. He said there was a lady over there, (pointing towards the "Port,") who knows something about it— "Suppose we ride over and see her." I told him I thought we had better postpone it to another time. Dr. Webster said he had called on Dr. Parkman about nine o'clock on the morning of the 23d, requesting the Doctor to call on him between the hours of one and two. He also stated that the Doctor did call. He also stated that he paid him $483, and that Dr. Parkman was to cancel the mortgage.

I inquired of Dr. Webster if Dr. Parkman had done so. I think his answer was, he did not know. I then asked him, in case Dr. Parkman was not found and it was not cancelled, whether he would be the loser. He answered that he would not. When we arrived near the bridge, I told him that soundings had been had about these waters, all above and below the bridge; that a hat had been found near the Navy Yard, supposed to be Dr. Parkman's.

We drove on till we got to Bridge-street, and the Doctor observed we were going the wrong way. I told him I thought perhaps the driver might be green. We arrived at the jail, and I got out and went to the jail-door, to see if there were any spectators there. I then requested the gentlemen to get out, and we walked into the jail-office.

The Doctor got out and walked in, without making any remark whatever. After we got into the office, I opened the door to the rear office, and said, "Gentlemen, suppose we walk in here;" and they all walked in, without saying a word. Dr. Webster now turned round to me, and said, "What does all this mean?" Said I, "Dr. Webster, you recollect I told you, at the bridge, that soundings had been had above and below the bridge. We have been sounding in and about the College. We have done looking for the body of Dr. Parkman. We shall not look for his body any more; and you are now in custody on the charge of the murder of Dr. Parkman."

He uttered half a sentence that I did not understand, and then said, "I wish you would send word to my family." I recommended to him to have it postponed till morning. I told him I thought it would be a sad night to them, if they knew it. He seemed inclined to speak to me a word or two, on the nature of the crime, and I said to him, "I think it would be better for you not to say anything on the subject."

He wished me to notify some of his friends that night. I recommended him to wait till morning, and told him that it would be of no use to him, for they could not see him, as things were then. I told him that there was nothing necessary to be done that night, and advised him to postpone it till morning. I then told him I wished to see if he had anything about him improper to carry into jail.

I took into my possession, that came from his person, a gold watch, a wallet and $2.40 in money, and certain papers, an omnibus ticket-case, and five keys. One of the keys appeared to be a key of his house, and that I have given up. One of these keys was marked "privy."

I took all these articles, and carried them to the Marshal's office, and locked them up in my private drawer, of which I have the key, and did not see them again until Sunday, about twelve o'clock.

I left Dr. Webster in custody of Mr. Starkweather and Mr. Spurr. I made out a mittimus, and gave it to Mr. Starkweather, and told him not to commit the Doctor till he had heard from me. Mr. Spurr and myself then went to the Marshal's office, locked up the articles I had taken from the Doctor, and then went in pursuit of the Marshal. Did not find Mr. Gustavus Andrews at the jail.

I did not find the Marshal. Went for the County Attorney, but did not find him. Went to the College, and found Dr. Webster there. I first saw the party in the laboratory, standing by the sink. They were waiting for the key to unlock the privy. Mr. Littlefield came, with some two dozen keys, and found none that would fit. We got several articles to pry open the door, and in doing so, the lock came off. Sunday, about twelve o'clock, I found this key, marked "privy."

[The lock was produced, and the key shown to fit.]

The next day I went into the laboratory, and found the lock where I had laid it. I found the screws, and put the lock on, and put the key in, and found it fit.

I have some keys that I found at Dr. Webster's house, when I went there with a search-warrant, and they fit the doors of the College. I went and tried them, and found them fit according to the labels. I found the two keys that fit the outside front doors in his private drawer, in the College. Those keys that I found at Cambridge fit the doors of the laboratory.

I saw Coroner Pratt at the laboratory, after Dr. Webster's arrest. I heard Col. Pratt and some others say that it was not best to meddle with the furnace.

Soon after I went in, I found the Doctor facing the north side. He was in a great tremor. Some of them put a tumbler of water to his mouth, and I noticed his teeth hit the tumbler.

He did not seem to me to know what was going on. He did not seem to notice it. His teeth chattered, and he trembled. He appeared more like the "trembling madness" than anything else I could think of.

I obtained a warrant on the first day of ~~September~~. I got Mr. Charles Cunningham to go out with me, and search the premises of Dr. Webster. I took a bank book from a drawer in his library.

[This he presented to the Court.]

I did not find anything locked there. We searched the library very closely; looked behind all the books. Searched the trunk over in which these papers were found, and it seemed to be filled with old papers. Saw none like those afterwards found.

If they had been there in the same condition at our first search as when I found them, I think I should have noticed them. We were directed immediately to go again. We went to the College, and got permission to look over his minerals, but found nothing. We went to his house, but found nothing.

The Court here adjourned till half past three o'clock.

AFTERNOON.

Examination of DERASTUS CLAPP, *resumed.* — There were other private papers in the pockets of Dr. Webster, not pertaining to this case. I am not confident that on the night of the discovery Mr. Littlefield tried the door of the laboratory; when we looked into the upper laboratory, all appeared right. Do not recollect stopping and looking at minerals in the lower laboratory. Don't recollect that there was a fire in the furnace in the lower laboratory; at the time when we went over to arrest Dr. Webster, all that was said to him was, "We are going to have another search of the College, and want you to be present." The keys produced are all that I found upon him; in coming over from Cambridge, in relation to the disappearance of Dr. Parkman, Dr. Webster said he believed Dr. Parkman to be an honest man, and that he should lose nothing by his disappearance. The conversation in the carriage was easy, and it was my endeavor to keep it so. We arrived at the jail at quarter past eight, and at the College at some past ten.

CHARLES W. LITTLE, *sworn.* — I am a resident of Cambridge; am a student at Harvard of the Senior Class. Knew Dr. George Parkman. Recollect meeting him on Thursday, Nov. 22d, at about two P. M., on the Mt. Auburn road, between Mr. Saunders' and the ~~Foundery.~~ He was riding in a chaise; he asked me where Dr. Webster lived, and I pointed out the place, when he rode on. The distance to Prof. Webster's house was between a quarter and an eighth of a mile. I fix the day from the fact that the next day I went to New York. Dr. Parkman was riding alone.

SETH PETTEE, *sworn.* — Am a resident of Dorchester; am discount clerk in the New England Bank, and collect funds at the Medical College. There are seven Professors, and my duty is to distribute tickets, and collect the pay for them of the students. I entered upon this office on the 7th of November. My first acquaintance with Dr. Webster was at this time. Received one hundred of Dr. Webster's tickets for the chemical lectures, to dispose of among the students. I disposed of fifty-five tickets, and received pay at the rate of $15 per ticket — which amounted to $825. Some of them were third-course tickets, which students attending the two other courses are entitled to free.

In all I disposed of ninety-three tickets to Prof. Webster's course;

thirty-eight tickets were for notes, third course and free, and seven I have on hand; the total number of students on my list, for all the courses, was 107. In three instances tickets to Dr. Webster's course have been disposed of without my receiving the money. At the first division, on the 9th Nov., of the funds, which I made among the Professors, of the proceeds of the lectures, there was due Prof. Webster $510. I had in my hand a note signed by Prof. Webster, and payable to Dr. Bigelow, of $225.89. That note was dated April 1, 1849. Interest, $8.31. Total amount, $234.10. This sum I took out of the amount due Prof. Webster, and gave him a check for the balance, $275.90. The next division of funds was about the 14th of November. I credited him with thirteen tickets sold, amounting to $195, that I paid him not far from the middle of November, by a check upon the New England Bank.

The next payment was on the 16th — two tickets, $30 — and was paid on the 20th to Mr. Littlefield, who had an order for it from Dr. Webster. The order read, "Please deliver to bearer whatever tickets or balance of cash you may have on hand." On the 23d, for six tickets, I gave him a check for $90. I have still some of his funds on hand. I was first acquainted with Dr. Parkman,— that is, to know that it was he,— on the 12th of Nov. He came into my place of business, and inquired of me whether I collected the funds of the Medical College.

Mr. Sohier. I shall object to this conversation with Dr. Parkman.

Mr. Bemis (*addressing the Court.*) We do not ask it as a conversation. We ask it as a fact, to ascertain whether or no Dr. Parkman made the inquiry of him if he had funds belonging to Dr. Webster.

Chief Justice Shaw. That is admissible.

Mr. Bemis. State whether he ever made such an inquiry.

Mr. Pettee. He did make that inquiry of me. And I stated to him that I had no funds then in my hands.

Judge Merrick. We object to this.

Mr. Bemis (*aside to Mr. Clifford.*) Why not make an attempt to get in this entire conversation now?

Mr. Clifford. It will appear, may it please your Honor, in the course of Mr. Pettee's testimony, that certain conversations were had between him and Dr. Parkman, with respect to the state of Dr. Webster's funds; and that subsequently this conversation was communicated by Mr. Pettee to Dr. Webster. And I suppose that all his conversations with Dr. Parkman were communicated to Dr. Webster; we certainly intend to prove that this one was.

Judge Merrick. We do not object, if you intend to prove that.

Mr. Pettee. I told Dr. Parkman I had paid Dr. Webster all I had, only a few days before. He made some few remarks, and left the bank. In a short time, he returned and took a dividend belonging to his wife. When I paid the dividend, I inquired if Prof. Webster owed him; when he replied that I could judge by his inquiries. On the 14th, Dr. Parkman called again, and again inquired if I had any funds of Dr. Webster's in my hands. I replied that I had not, for I had just paid them over to Dr. Webster. He said to me he thought he had given me a hint to retain the funds, or something to that purpose. I told him I had no control over the funds belonging to the

Professor. He said, "If you had done it, you would have been doing justice to Dr. Webster, and all concerned;" that he should be obliged to distress Dr. Webster and his family. He seemed to blame me for not retaining the funds. He afterwards made some remarks, the import of which was, that he was not an honest or upright man; and he asked me to tell Dr. Webster so. I never saw Dr. Parkman again. On the morning of the 23d, I went to the College, to pay the $90 in my hands.

I inquired for Mr. Littlefield, and was sent to the front door, where I took a notice from the box in the front entry and altered it; the notice was to the students, and I altered the time I would meet them there from Thursday to Saturday. I passed through into the library, and thence into Dr. Ware's lecture-room; and then passed through Mr. Littlefield's cellar into the laboratory, and thence to Dr. Webster's room. I apologized to Dr. Webster for coming so early. He told me to walk in. I told him that Dr. Parkman had called upon me several times, to inquire if I had any funds of his in my possession; and that therefore I did not wish to have any trouble with Dr. Parkman, and had come to pay the money over to him. Professor Webster replied, "Dr. Parkman is a curious sort of man, rather nervous, and has been at times subject to fits of aberration of mind;" so much so, he believed he was once obliged to put his property out of his hands, and that Mr. Blake, a relative, attended to his business.

After making these remarks, he said, "You will have no further trouble with Dr. Parkman, for I have settled with him." I then paid Dr. Webster by a check for $90 on the Freeman's Bank. On the same afternoon, (Friday, the 23d,) between four and five o'clock, I went to the College, and passed up to the front door; I rang the bell, and there was a woman passed through the library, and, as I thought, was going to open the door; but she looked through the side-lights, and asked if I wanted to speak to Mr. Littlefield? I replied that I did. She said that if I would go to the side door, I could find him. I went to that door, and met Mr. Littlefield; he was in his usual dress, but without shoes and stockings. I asked him if he had sent for me, and what for? He said he wanted me to fill up a ticket for B. R. Ridgeway, a student, who was going to leave town the next morning. I took out the ticket, and gave it to Mr. Littlefield, and left. The following day, (Saturday, the 24th,) at about three o'clock in the afternoon, I again went to the College, through the front entrance, and into Professor Ware's lecture-room, and saw Mr. Littlefield sitting upon a table.

My visit to Dr. Webster on Friday morning was especially to pay over to him the money in my hands. I sent to him no word that I should pay him money that morning. At the interview with Dr. Parkman on the 14th, relative to Dr. Webster and the funds belonging to him in my possession, his language was hard, but not profane. At the first interview that I had with him, when I told him that I had paid over to Dr. Webster all the money in my hands, he replied,—"The de'il you have"—or something to that effect. His message sent by me to Dr. Webster contained no profane expression. I think I did not communicate Dr. Parkman's message to Dr. Webster, that he was a dishonest man; but I told him I did not wish to have any trouble with Dr. Parkman relative to the funds.

Cross-examination. I have no means of knowing how many students attended Dr. Webster's lectures, only of the tickets sold; the bills that were paid on the check for $275 were on the New England Bank. I have only ninety-nine on my list who took chemical tickets of me. I had no other business with Dr. Webster, on the morning of Friday, the 23d of November, than to pay him the money in my hands. The expressions of Dr. Parkman, when I told him that I had paid over the money to Dr. Webster, were very harsh, and he appeared to be quite excited.

Direct resumed. I communicated to Dr. Webster, I think, no such language from Dr. Parkman, as that he was a —— rascal and a —— whelp. If I had communicated such language, I think I should have remembered it.

JOHN B. DANA, *sworn.* — I am cashier of the Charles River Bank. I have known the defendant for the last twenty years; he kept an account at our bank in November last.

[A bank book, found at Prof. Webster's house by Constable Clapp, was here put in.]

On the 10th of November, a check on the Freeman's Bank for $275.90 was deposited in our bank by Professor Webster; November 15th, he deposited $150 in bills; November 24th, a check for $90. On the 23d of November, the balance in the bank to the credit of Professor Webster was $139.15 cents; this balance is struck from the checks actually drawn up to that time. On the 1st of November, his balance in the bank was $4.26 cents. There were no deposits after the 24th of November. On the 1st of December, we paid a check of Prof. Webster's for $93.75, for rent. Do not know when it was drawn. December 3d, (Monday,) paid $5, $13, and $19; those are the last checks that were paid; for the balance, found to be about $68, a trustee process was issued on the 1st of December, which we paid into the hands of the party who trusteed.

DANIEL HENCHMAN, *sworn.* — I am a druggist in Cambridge-street; am acquainted with Dr. Webster. On the 23d of November, Dr. Webster asked me if I would give him bills for a check for $10. I gave him the bills; he gave me a check on the Charles River Bank.

[The check in question was here produced.]

It is dated November 22d, but was handed to me on the 23d, (Friday.) On Friday, the day of the arrest, (November 30,) the check was sent out to the bank for payment; and the answer returned was, that there were no funds of Dr. Webster's there. I have never received payment for the check.

JAMES H. BLAKE, *sworn.* — I am nephew of the late Dr. George Parkman; I assisted in the search for Dr. Parkman, after his disappearance. On Sunday afternoon, about three o'clock, I went on to the jail land, and, in returning, went up North Grove-street, toward the Medical College. Near the College, I stopped, and was talking to several police officers. While there, Dr. Webster came from the direction of the College towards me; think he had no overcoat on; it was a cold, disagreeable day. He took me by the hand, and said that, on the evening before, he saw in the *Transcript* a notice of the disappearance of Dr. Parkman, and that he had come in on purpose to notify the family that he was the person who went to Dr. Parkman's house on Friday morning, and made an appointment with him at the

Medical College, at half past one o'clock. That was the first we knew of the person who called at Dr. Parkman's house. Prof. Webster said that Dr. Parkman met him at the hour appointed, and that he paid him the amount of the note, and that Dr. Parkman said that he would go to East Cambridge, and discharge the mortgage. Said Prof. Webster, "We all know Dr. Parkman to be an honest man, and I trusted him with it." He then said that he should go up and see the Rev. Dr. Francis Parkman about it. Dr. Webster said, on that morning he went to church, and he thought he would wait until the afternoon before he came in. After this conversation, Prof. Webster went into the Medical College. At this time, there were several police officers about. Did not see him again that day. Stood near the College a few minutes, and then went to the Marshal's office. While I was standing in North Grove-street, Dr. Webster might have come up the street without my seeing him; but I was standing so that I could see the College, and the Doctor came from the direction of the College, when I first saw him. When he met me, he took me by the hand rather suddenly; but I noticed nothing uncommon or unusual. He held me by the hand nearly all the time we were talking. He made no inquiry relative to any search that we were making for Dr. Parkman. Relative to the mortgage, Prof. Webster said, "I trusted it with the Doctor to go over to Cambridge and discharge it."

Cross-examination. We were, at the time, searching for Dr. Parkman, but I did not inform Prof. Webster of the fact. Prof. Webster did not inform me how he came in. Commenced the search for Dr. Parkman on Saturday afternoon, after dinner.

Rev. Dr. Francis Parkman, *sworn.* — I am brother to the late Dr. George Parkman. Have known Prof. Webster for a great many years; first, when he resided at the North end, in his father's house; he attended at my church. After he moved to Cambridge, I was called to perform pastoral offices for him within three months of the disappearance. I was called upon, by the son-in-law and daughter of Dr. Webster, to baptize their son, the grandson of Dr. Webster.

On the Sunday after the disappearance of my brother, we were in great perplexity and distress. The day was passed partly with my brother's family. About four o'clock in the afternoon, just as the people were passing from church, Dr. Webster came to my house. Immediately upon entering the room, he said, "I come to tell you that at half-past one, on Friday, I saw your brother, and paid him some money." Either myself or Mrs. Parkman said, "Then you are the gentleman that called at George's house, at half past nine on Friday morning, and made the appointment." He answered that he was, and that he should have come and told us before, but that he did not see the notice until Saturday evening, and that he waited till now because he supposed the family would be at church. I then said, "Dr. Webster, we are glad to see you, and to learn that you are the person who called upon him; for we feared that he had been lured by some one to East Cambridge, to do him some harm." Dr. Webster said, "He did come to the College, on Friday, and I then paid him $483, and some odd cents." I asked him if he was perfectly sure of the hour; to which he answered, "I am quite certain." I asked him this question, because two men had called at my house, and stated that they saw my brother, at some distance from the College, on

Grove-street, on Friday, Nov. 23, but not so far that he might not have reached the College at half past one. He said, "My lecture ended at one, and I waited twenty minutes or half an hour." I asked him if he saw any papers or bundles in his hand. Dr. Webster said, "Yes, he had some papers, and he took out one and dashed his pen across the paper,"—making a sudden motion, to intimate the mark intended to represent it as sudden and violent. Dr. Webster said, that he, upon paying the money, remarked that the mortgage was not cancelled; to which Dr. Parkman replied, with quickness, "I will see to that, I will see to that." He then said that Dr. Parkman went out of the College with great rapidity.

I then asked Dr. Webster if he could inform me whether my brother actually went to Cambridge to cancel the mortgage. He said he could not tell, but that he would go to the Register's office and find out. His manner I could not but observe to be hasty; there seemed to be in him great nervousness of manner. He commenced upon his business immediately upon entering the room, and it was impossible for me not to remark that there was no expression of surprise at the mysterious disappearance, and none of sympathy. I should describe it as a business visit. His characteristics are activity and quickness, and therefore his conduct at the interview did not impress me so strongly at the time; there was a certain flurry of manner that I had not observed at former interviews. What particularly struck me, was the absence of that expression of sympathy natural to give to those in perplexity and distress. He was there from ten to fifteen minutes. My impression is, that he wore no overcoat. When he left my house, in Bowdoin-square, my impression is, that he went down Green-street. My brother's habits were very remarkable. He was amongst the most punctual of mankind. He was almost invariably at his regular meals. He had a wife, a son, and a daughter. His daughter had been a great invalid, and he paid a great deal of attention, and was a good deal with her. His son was away, at the time, in Europe. I believe I may say, with confidence, that my brother never used profane language. When he was moved, he would express himself strongly; but I think I may say that I never heard him use a profane word.

Cross-examination. The names of the two men who called at my house and stated that they saw my brother at quarter past one, some ways from the College, were named Fessenden and Oliver. Dr. Webster, when he said my brother took a paper from his bundle and dashed his pen across it, did not say what the paper was.

The Court here adjourned to nine o'clock on Tuesday morning.

SEVENTH DAY.—*Tuesday, March 26th.*

At a little past nine, the Court came in, and after the calling of the Jury, the evidence for the prosecution was continued.

Ralph Smith, *sworn.*—My residence is in this city, and I am engaged in mercantile business. Have had some business with Prof. Webster. A letter, dated October 15th, 1849, came in answer to a letter I had written to him. He was owing me at this time, and as

I wished to close up the partnership concern, I wrote to him, and this was his reply.

[The letter was read and is as follows:—]

Cambridge, October 15th, 1849.

R. SMITH, ESQ. — Dear Sir: I will call and pay your bill, on receiving my fees from the medical students; until when I ask your indulgence.

Respectfully yours,
J. W. WEBSTER.

SAMUEL D. FULLER, *sworn*. — I am one of the police, and have been for nine years. I have seen the defendant, but am not at all acquainted with him. I saw him on Sunday evening, November 25, after the disappearance of Dr. Parkman. I went to East Cambridge, to the Register of Deeds, to ascertain if Dr. Parkman had been there to get a mortgage cancelled. I had a chaise with me. Mr. Thompson, the clerk, said that we would better go and see Dr. Webster, as that would be the quickest way to get at it, so as to get the names to enable us to find it on the records. We reached Dr. Webster's just at the edge of the evening. Dr. Webster came to the door. The clerk spoke first, and told our business. After going in, Dr. Webster opened an account-book, and after turning over the leaves two or three times, left the room. He seemed to tremble. He was gone some two or three minutes, and then came back, and sat down in a chair, and said, "It is strange I cannot find those papers." He got up, and went to his trunk, and overhauled his papers. He went back to the account-book, turned the leaves over two or three times, and then had some conversation with the clerk. He sat down again, and said, "My ticket-man said that Dr. Parkman came to him the other day, and demanded what money he had in his possession, for tickets sold. My ticket-man refused to let him have the money; Dr. Parkman, thereupon, told my ticket-man that I was a d—d rascal and scoundrel." Webster said, "I don't care for it now, but I did at the time. I have settled with Dr. Parkman, and it is all over." Dr. Webster had some conversation with the clerk, and told him that the mortgage was on personal property, and not on real estate. I said we would go to the City Clerk's and see if Dr. Parkman had been there. We then left. I saw no more of Dr. Webster that night. I saw him again on Tuesday forenoon, about eleven. I was at the College, with Messrs. Clapp, Wright, and Charles M. Kingsley, from eleven to eleven and a half. We went to the lower laboratory stairs door, leading from Mr. Littlefield's ~~store-room~~, and found it fast, and then went to store-room door; both were fast. Then went up to front door of the lecture-room. After Mr. Littlefield had knocked twice, Dr. Webster came to the door. Mr. Clapp made his business known, and said that he had come to search the building. I asked Dr. Webster who was with him when he paid Dr. Parkman this money. He said, "There was no one but the Doctor and myself." I asked the time of the occurrence. He said between half past one and two o'clock. I asked Dr. Webster where he and Dr. Parkman stood, when he paid this money. He said, "Behind the table, near the end," — that is, as he would stand in facing the students, it would be

the left. We then passed on to the laboratory. He said, "This is my private laboratory, gentlemen."

When we got down to the foot of the stairs, Mr. Clapp asked, turning to the privy, "What place is this?" Mr. Littlefield answered, "Mr. Webster's private privy." At same time, Dr. Webster said, "Gentlemen, here is another room." We passed on, taking very little notice of what was in the lower laboratory. I did not mind what there was there. I noticed Dr. Webster hurried us through the rooms. After we looked at the main vault, I then passed on with Mr. Littlefield, who took a lantern, and went down into a scuttle, through an arch under the building, and went to the corner by the privy. I asked Mr. Littlefield if that was the outside wall. He said it was the privy wall. There was no hole there at that time. There was some short conversation between Mr. Littlefield and myself, there. I have been under Dr. Webster's laboratory two separate times, and have examined the walls about the cellar. There is no access to the tide in the cellar. Since the arrest, I have been through the hole in the brick wall.

I am the officer who found remains in the tea-chest. I had been searching, Saturday, 30th November, from half past eight till a few minutes before four. I had seen the chest once before. Mr. Rice, Trenholm, Butman, and others, were there; there were some six or eight of them. I told them that I would take that side of the building, and search everything. I looked over the bottles, &c., in the laboratory. I looked at the box, and thought it was where he kept his minerals; but as I meant to search everything, I commenced taking off some of the minerals. The writing on the labels looked fresh, and after I had taken out a few minerals, I noticed some tan; and I then run down my hand through the minerals into the tan. I put my hand into the tan as far as my wrist, and drew out a large knife; opened it, looked at it, shut it, and put it into my pocket. I made a remark, that I thought that there was something besides minerals there. I then took the chest out into middle of the room, and turned it out, and there were the remains of a human body, — a thorax and other parts. When the contents of the chest came out, the back was up, as I turned out the remains. I found a hole in the trunk, in the left breast, about the region of the heart. The tan was scraped off by the hand. Some one took up a stick to scrape it off; I told them not to touch it till the Coroner had been called. I made a remark, that I thought the knife would fit the wound; but I did not try it.

[The tea-chest in which the remains were found was here shown to the Jury. It is a common one, without the lead lining. Three sides of it are covered with heavy marks of blood on the inside, as though the wood was well saturated with it.]

I also found a kidney. There were some bed-clothes found in the lower laboratory, on the table. There was a comforter, and two woollen blankets. I found them near the window, done up in a newspaper. Should not think any of them had ever been used; they were new. I remained in these rooms five weeks, lacking one day — from early in the morning to eleven o'clock at night. We allowed no one in without a permit from the City Marshal or the Mayor. I watched Littlefield very closely, and did not allow him to move an inch without watching him, as I was ordered. The privy hole was nine

and three fourths inches each way. We tried to get the thorax through the hole, but could not, as it was not large enough. The pelvis would go through by turning it up, as I called, edgeways.

We made experiments in regard to hearing noises from Dr. Holmes' room, and Dr. Webster's laboratory, by shouting. Both doors were shut at the time. This experiment was made by some one who came in with a permit. I was up stairs, and the other person was below; and then we changed. We could not hear each other.

[A small plate and stick, both having ink on them, were here shown to the witness.]

The plate stood in the upper laboratory, on a bench. The bench was some five or six feet from the lecture-room door. The stick lay under the table, on the floor. This was Saturday morning.

Cross-examination. I measured the privy-seat after it was taken up from its place. Mrs. Littlefield and Butnam, I think, were there. The seat was up. Mr. Littlefield held the thorax; also the pelvis. The pelvis went through quite easy, but there was no room to spare. There was tan in a bag, and about half a bushel in a barrel. The bag laid about eight or ten feet from the door of Mr. Littlefield's store-room. The bag was very nearly full. I did not see the tea-chest on Tuesday, to take any notice of it. The knife was shut. I think I put it in my pocket. At any rate, it was in my pocket a few minutes after, and I have had it in my possession ever since. When the chest was turned up, there were Butman, Starkweather, Rice, and, I think, Mr. Littlefield.

This party was there most of Saturday and Sunday. I said the tea-chest was found Saturday, a few minutes before four o'clock. When the thorax first came out, it fell back up. As I held the chest up sideways, it slid out. I saw the hole after I had looked at the thorax some four or five minutes. I turned it over, and saw it when I turned it over. I drawed it part way out of the tan, and let it lay till the Coroner came. A string was not tied round the thorax, but it was round the bones of the thigh.

I allowed no one to meddle with the remains till the Coroner's Jury came. They came about half past four o'clock the same afternoon. Butman was going to scrape the tan off, when I spoke to him. He did not scrape it, though. He said, "I am going to scrape the tan off, to see how it will look." I took my hand and brushed off the outside. The neck-end of the thorax was up, as it lay in the chest. I put my hand down about up to my wrist. I never saw Thompson, after he went out to Cambridge, till I saw him here at the trial. I told this gentleman that I thought Dr. Webster's conduct very singular, but I did n't know but what it was his way. This was after I left Dr. Webster's house, at the time we went to Cambridge about the mortgage. I thought he trembled. I had no suspicion of Dr. Webster at the time. I did n't know but what it was his manner.

We arrived at Cambridge just after dark. I should n't think we were there more than twelve or fifteen minutes. We went to ascertain the date of the mortgage. The first day I was at the College was Tuesday. I think I did n't state to the Coroner's Inquest that Dr. Webster said that Dr. Parkman was there at half past one o'clock exactly. I made memorandum of the conversation that took place on Tuesday, the next morning, I think, or that night. The memo-

randum of the conversation that took place Sunday preceding this Tuesday, I made on Monday morning. I think I made remarks in it, that Dr. Webster trembled. When Mr. Littlefield made the remark that "That is Dr. Webster's privy," two of the officers went down stairs.

Saturday was the first day I went down cellar. I took particular notice of the ground. There are marks of tide coming in in the trench; it follows the trench, and does not flow over all the cellar. In the trench, it is sometimes three feet deep near the wall, and two feet near the privy.

I did not see the remains in the privy. The trench varies from three and a half feet to six feet. It is quite level near the privy-hole, but towards the north wall it is considerably steeper. I found towels under the privy-hole. They were directly under the privy. The labels to the minerals did n't look as though they had been written a very long time; perhaps five or six months.

Direct resumed. Mr. Eaton was there after I had taken the tea-chest out by the window.

Samuel Parkman Blake, *sworn.* — I am nephew of the late Dr. Parkman. After Saturday evening, I devoted my whole time to searching for Dr. Parkman. I heard that Dr. Webster had paid Dr. Parkman some money; and so I called to see him, on Monday morning, between the hours of ten and eleven, at the College.

As I approached the Medical College, I met a student, as I thought. I asked him if Dr. Webster lectured there. He said he could not tell. I believe he then rang the bell. Mr. Littlefield came to the door. I asked if Dr. Webster lectured on that day. He said he believed not. He tried the door to the lecture-room, and it was fastened. I gave him my name. I know that the door was fastened, and he said he would go round the back way. He asked my name, and passed through the entry. He kept me, as I thought, rather an unusual time. He then unbolted the lecture-room door. He (Littlefield) passed out, and I passed in.

As soon as I entered the lecture-room, I saw Dr. Webster coming out of his laboratory. He had something in his hands, which he put on the table. He had on a smoking-cap, and a working-dress, I should think. He stood still, and I came up to him. I said I had heard he had paid Dr. Parkman some money, and had called to inquire the particulars respecting it. He then went on to state that, on the preceding Tuesday, the 20th, his lecture-day, Dr. Parkman had called there, before his lecture had closed; and he said he sat down in that seat, (pointing to a seat, in this way,) waiting for me to get through the lecture. After the lecture, Dr. Parkman came up to Dr. Webster, with a paper, and said, "Doctor, I want some money." He said he was very much affected, and quite angry; and said, "You have $500 in your pocket, and I want it." Dr. Webster said, "I told him that I could not pay him on that day; that I had not collected all the money." Dr. Parkman said, "When will you pay it?" "I said, 'On Friday.' Dr. Parkman then went out. On Friday, the 23d of November, I called at Dr. Parkman's house. I saw him at the door, and told him if he would come to the lecture-room that day, I would settle. He did come, about half past one o'clock."

I asked him how he knew about the time. Dr. Webster said, "My lecture had finished, and some of the students stopped

to ask questions; and, after getting through with the students, they went to look at some pictures, recently purchased, in the back room, and then went out. Very soon, Dr. Parkman appeared; seemed to be in a great hurry, and came up to my table and asked me if I was ready for him. I said I was. Dr. Parkman then took out of his pocket a bundle of papers, done up rather loosely in brown paper. From this bundle he drew out some notes, and I took out the money and paid it — some $483," and some cents. I don't remember how much he said. "He seized the money, and was going off. I said, 'There is one thing you have forgotten, Doctor — that is, the mortgage.' Dr. Parkman said, 'I hav n't it with me, but I will see that it is properly attended to.' He then rushed out of the lecture-room, with these papers carelessly exposed to view."

I then asked him in what money he paid him, thinking I might get some clue. He said he did n't recollect much about it, except one $100 bill on the New England Bank; there were other bills, from $12 to $50. He said he could n't say whether they were country bills, or not. I asked if he had the notes Dr. Parkman gave him. He answered in the affirmative, but in a way that made an impression on my mind at the time. I asked if any one was present during the interview. He said, very emphatically, "No."

We then went on to talk about our families. There was nothing further of importance. I then left him. I had been acquainted with Dr. Webster for a good many years. On my entrance, his manner was peculiar. It seemed to want that cordiality which was usual with him. When I came down the lecture-room steps, I had my eye on him, and he seemed to look pale. He received me in a stiff manner. I think he did n't put out his hand, to shake hands. His manner, when he spoke of Dr. Parkman, surprised me, by the expression "angrily," at this time, when the family were in deep distress. He expressed no sympathy. He stood rather stiffly, and let me approach him, instead of partly coming to meet me. He said very little about the search for Dr. Parkman. He made no inquiry about Dr. Parkman's family at all.

This interview did not last more than fifteen or twenty minutes — perhaps fifteen. We talked of other general topics. There was no change of subject while we were talking about Dr. Parkman. I went out the same door I entered. I heard the door bolted after me.

Cross-examination. I only know Dr. Webster came after me, by hearing the door bolted after me. I heard of the disappearance of Dr. Parkman Saturday afternoon, about four o'clock, and I devoted myself to his search from that time. I felt very great apprehension. Dr. Webster was preparing for his lecture the next day. He put a jar on the table. He told me he was preparing for lecture next day. I did not assist in preparation of handbills. I looked into the upper laboratory. I merely looked in through curiosity. When the Doctor sat down, it was in the lecture-room, on a settee, at the west end. He did not sit at all, in the laboratory, during the interview.

[The Court here took a recess of a few minutes, during which time the Jury were allowed to retire.]

CHARLES B. STARKWEATHER, *sworn.* — I am connected with the police, and have been for four years. I first commenced my search for Dr. Parkman the Saturday after his disappearance. On the

Monday subsequent, I went to the Medical College, in company with Mr. Kingsley, and met Mr. Littlefield, about twelve o'clock. Saw Dr. Ainsworth and Dr. Bigelow. I made known to them the object of my visit; that we had come to look over the College, to see if we could find Dr. Parkman. They made no objection. Mr. Littlefield tried Dr. Webster's door, and it was fastened. He then knocked on it quite hard. In about a minute, Dr. Webster came to the door. We told him what we came for, and then went in. We went into his upper laboratory, and then down stairs into the lower laboratory. Dr. Webster went down with us. We were in the lower laboratory about three minutes. Dr. Webster said, "This is all my apartments." Mr. Littlefield opened the door by the lower laboratory stairs, and we went out. When Dr. Webster got to the foot of the stairs, he said, "This is all my apartments."

I was one of the party who went, on Friday night, the 30th November, to arrest him. Coming in, Dr. Webster talked very freely about the railroad, and a Mrs. Bent, who had seen Dr. Parkman on Friday. He wanted us to drive round by the Port, and see her, and come in over Cragie's Bridge. When we were coming up Leverett-street, beyond 2nd-street, Dr. Webster said that we had passed the street to go the Medical College, and some one remarked that the driver was rather green. The conversation was mostly carried on by Mr. Clapp. We got to the jail, and got out. Dr. Webster was the first man that spoke. He said, "Mr. Clapp, what does this mean?" Mr. Clapp said, "We have done looking for Dr. Parkman, and we have taken you into custody for the murder." "What, me!" "Yes, sir; you are in custody for the murder of Dr. Parkman." Mr. Clapp and Mr. Spurr then left, and went in search of the Marshal and Mr. Samuel D. Parker. Before leaving, Mr. Clapp made out a mittimus, but told me not to commit him then.

Immediately after Mr. Clapp went out, Dr. Webster called for water, and drank. He asked me if they had found Dr. Parkman. I told him I wished he would n't ask me any questions, as it was not proper for me to answer them. He said, "You might tell me something about it. — Where did they find him? — Did they find the whole of the body? — How came they to suspect me? — Oh! my children! what will they do! — What will they think of me! — Where did you get the information?" I asked the Dr. if any one had had access to his private apartments. He answered, "Nobody has had access to my private apartments, but the porter, who makes the fires." There was a pause for some minute and a half; then he exclaimed, "Oh that villain! I am a ruined man!" He said nothing more, but walked the floor, wrung his hands, and sat down. He seemed to put his hand into his vest pocket, and put it up to his mouth. In a moment he had a spasm. I went up to him, and asked him if he had been taking anything. I thought, by his appearance, he had. I took hold of him, and raised him up, and he walked the floor. I was with him about an hour.

Mr. Clapp came back, and told me he had not found the Marshal and Mr. Parker. I went to the Doctor, and told him that we must commit him. He could n't stand. I asked Mr. Cummings, one of the attendants at the jail, to take hold of him. We put him in the lock-up. I told Mr. Cummings that I thought he had been taking something, and he

had better send for a physician. The lock-up is under the office, not in the jail proper. Mr. Clapp thought it was not best to send for a doctor, unless the prisoner got worse, but to attend to him ourselves. We had to lay him into his berth. He laid on his side, and turned over on to his face. He appeared like a man in a fit, though I never saw a man just so in my life.

I saw Dr. Webster again, at the Medical College, about three quarters of an hour after. Dr. Webster, Mr. Parker, Mr. Clapp, and several others, were in the upper laboratory when I arrived. I only saw two doors broken open. One was a privy door.

Some one asked where the furnace was, and Mr. Littlefield walked towards it. The Doctor appeared very much agitated in the laboratory. Not so much so up stairs as down stairs. I went down with Mr. Littlefield, and handed up the remains to Mr. Hopkins. I don't remember that the Doctor said anything, but he asked for some water. He tried to drink, but spilt it all out. The remains were brought out by the scuttle door, and there the Doctor stood, looking at them. I was at the Medical College daytimes, but not nights, after the remains were found. I found fish-hooks and twine.

[The fish-hooks and twine were here shown to the Jury.]

[The fish-hooks here shown were apparently the size of the largest kind of cod-hooks, of nearly five inches in length. Three of them were bound together with stout twine, or marline, so as to form a grapple; and, a little above the place where they were joined, was a piece of lead, of about four or five ounces in weight. Some three or four more were shown, of the same size; some single, and some bound together. With one of the bunches there was a heavy sinker, perhaps weighing six or eight ounces. The twine was heavy and stout, of about one half the size of an ordinary clothes-line.]

These were all found, just as they are, in Dr. Webster's private room, on Friday night. I took them on Saturday. Saturday there was a general search. They were rolled up in a newspaper, all in one bundle. They were in a large closet, on a shelf. The twine was as it is now. The lead was found with them.

I was in the upper laboratory in the afternoon of Saturday, and heard my name called by some one below, and went into the lower laboratory. There I saw Mr. Fuller bringing a tea-chest, from the front part of the lower laboratory, out into the middle of the room. He emptied out a thigh, and other parts, with a quantity of twine round the thigh. I cut a piece of it off.

[The twine was here produced.] It all came from the thigh. [Some twenty-four skeleton keys were here offered to the witness by the Prosecuting Attorney.] These keys, except one, I found in Dr. Webster's back private room, on a shelf, tied up as they now are. These keys — [Answer objected to by Counsel for the defence, as not having sufficient connection with the subject-matter of investigation; but the Court ruled that the evidence in regard to the keys was admissible.]

There is a key fitting the dissecting-room. That key fits the door of Dr. Webster's lecture-room, and store-room door. The second key fits the outer lecture-room door, and bears marks of being filed. The third key fits front door, and the door underneath the steps; a brass key. They were all found together, in the back private room. These are all the keys that I know anything about.

There were three drawers in the room, which had been taken out, and made a cupboard of. [Some evidence in regard to finding ardent spirits objected to, and withdrawn.]

When Dr. Webster was brought to the Police Court, I said, " Dr. Webster, I found some keys in your room." Dr. Webster said, " What, those that were filed ? I picked them up in Fruit-street, and threw them there, into the cupboard.

Cross-examination. I was examined before the Coroner's Jury. I made notes at the College, as I found things. I went everywhere, — to Salem, Billerica and other towns, in search of Dr. Parkman. I wrote things down on the spot, and have the paper now in my possession. I had made this writing before I went before the Coroner's Jury. I don't think I said anything there about Dr. Webster's putting his hand in his pocket, and putting it to his mouth.

When I saw Littlefield at the College Friday, at half past four, I asked if every place had been searched. He said, " Yes, except Dr. Webster's privy." I asked if we couldn't look into that. He said, " No," that " Dr. Webster had the key, and had gone." I told him that we would come in the morning and see it. That is all the conversation. Mr. Kingsley was present. Mr. Kingsley came from the Marshal's office with me. We went and looked over several old buildings. I next saw Dr. Webster on Friday next, the day of his arrest. All the keys were in the same room, in the closet. I said to Dr. Webster, at the Police Court, that I had found *some* keys in his room; not *skeleton* keys. The rest of the keys do not fit any place, as I know of. The keys were all together. Mr. Clapp said that we had keys enough to fit, and that we need n't go back — that is, when Dr. Webster offered to go back after the keys at his house. I have given the exact words of conversation at the jail. I wrote them down while the Doctor was there ; and while he was talking, I was writing on a stove, which had no fire in it. I did not write down my own language.

CHARLES B. RICE, *sworn.*—Am one of the police who went to search Dr. Webster's apartments, on Tuesday. After going down stairs, some one asked if we had seen everything. Some one said, " Yes, except Dr. Webster's private privy." Mr. Littlefield said it, I think. This remark was made in the east room. Dr. Webster showed the way; we passed out. I was at the Medical College the night of his arrest. I remember the Coroner's Jury did n't wish the furnace meddled with till the next day. I stood behind Dr. Webster. I don't remember there was anything said in his presence.

Cross-examination. I saw a tea-chest turned over. Messrs. Fuller, Starkweather and others, were present. Starkweather stood on the stairs. We saw the remains. Some of the tan was brushed off by some one present. I can't say whether any one had, or had not, a stick in his hand. This was before the Jury came. I don't remember who asked if we had seen all; that was when we were down in the lower laboratory. Some one answered, " Yes, except Dr. Webster's private privy." Dr. Webster was talking with Mr. Clapp, facing towards me. Mr. Littlefield was in the room, but in what part, I cannot say.

SAMUEL LANE, JR., *sworn.* — I am hardware dealer. My store is No. 9, Dock-square. Know Dr. Webster; have known him since 1835. I could n't fix the day of Dr. Parkman's disappearance. After

I heard that Dr. Parkman was missing, I saw Dr. Webster at my place of business. I do not recollect the time of day, but should think the after part of the day. It must have been Monday or Tuesday after Dr. Parkman's disappearance, for I went out of the city Wednesday. He came in, and inquired for fish-hooks. That is all I recollect distinctly. I know I answered, that we had none in the store. I am a clerk. Mr. Stephen B. Kimball was clerk also, at the time. I had been in Dock-square about one year and a half, in the employ of M. C. Warren, at the time. I had seen Dr. Webster in the store before. It made no impression on my mind, for I have done business with him, but not very frequently at Mr. Warren's store.

STEPHEN B. KIMBALL, *sworn.* — I am clerk for Mr. Warren; and was at the time of Dr. Parkman's disappearance. I knew Dr. Webster. I saw him on Monday or Tuesday of Thanksgiving week. I fix the time, by Mr. Lane's going off the next day. He inquired for large-sized fish-hooks. It was late in the afternoon, for it was getting dark.

JAMES W. EDGERLY, *sworn.* — I am a hardware dealer. Remember the time of Dr. Parkman's disappearance. A person came into the store Tuesday, the 27th of November, towards night, to purchase fish-hooks, the largest we had. I showed him the largest, of which he purchased half a dozen, and went away. [Fish-hooks shown, and identified by witness.] I fix them by a peculiar mark on them, and by their unusual size. I have had them on hand two or three years. I did not then know Prof. Webster; but have seen him at the jail, and in Court, and recognize him as the one who purchased them. He did not state what he wished to do with them.

WILLIAM W. MEAD, *sworn.* — I am a hardware dealer, in Union-street. Am not acquainted with Dr. Webster, but have seen him. He called on the Friday after Thanksgiving, and inquired for fish-hooks; a hook to form a grapple-hook. I showed the kind I had, and he purchased three of them. I showed him how they might be put together, so as to form a grapple. The ones that he purchased were considerably smaller than those shown me. I could not swear positively that the person was Dr. Webster. I told an officer that he had on a dark dress; an over-coat. I went down to the jail, to look at him. They showed me where he was. I went in a short time, and came out, and remarked that, if I should see him with hat and coat on, I should feel more confident. The hat and coat were put on, and I thought that it looked like the same person. He came into my store about quarter of one; any way, it was before one.

TRUMAN M. TYLER, *sworn.* — I am a twine manufacturer. For forty-five years I have been an actual operator in the business. I am able to judge of the manufacture of the different kinds of twine. [Some dark short pieces of twine were shown to the witness.] It is small marline, and rather peculiar; it is two threaded marline. [The pieces on the fish-hooks were also shown.] I have not the least doubt but the pieces are the same. They are both of good Russian green hemp, a thing not usual for the manufacture of such marline at the present day. American hemp is mostly used. The Russian is used on ship-board. This is unusual for common uses. The irregularities of these pieces arise from being made in small quantity.

Cross-examination. When we make it, we don't make more than forty to fifty fathoms, and then we "ball up." There is not more

than four or five fathoms in a ball. There is five cents difference in a ball, between the kinds; one being twenty cents, the dew rotted; and the other, the green, twenty-five cents. In spinning, the furthest end will be the largest. I judge the specimens by the stock and manufacture.

[The witness went on here to illustrate, in technical terms, the difference of manufacture and of stock.]

By the Government. The Russian is used on ship-board, but does not come in balls.

NATHANIEL WATERMAN, *sworn.* — I am a tin dealer, in Cornhill; have known Dr. Webster for ten or twelve years. He was in my store on the 30th of November, about ten o'clock in the forenoon — the day of his arrest. Seeing him talking with my foreman, I walked up, and said, "Doctor, you must excuse me, but I must ask how Dr. Parkman appeared when he gave you the money?" He said he took the papers in his hand, and darted out in a peculiar manner. I said, if that was the case, some one, seeing the money, enticed him into one of his own houses, before he got a great way from the College. I said that if he was found, he would be found in a cellar of one of his own houses; for I did not believe the story of his going over Cambridge Bridge. Dr. Webster then said, "Dr. Parkman *did* go to Cambridge;" and then said he was sure he went there. He said so quite energetically. He then said, "Only think — a mesmeriser told the number of a cab, and Mr. FitzHenry Homer found the cab, and spots of blood on the lining of it." That is all that was said about Dr. Parkman.

[The Court here adjourned till half past three o'clock.]

AFTERNOON.

[The Court came in a few minutes past half past three, and the examination of the witnesses for the prosecution was resumed.]

NATHANIEL WATERMAN, *examination continued.* — Dr. Webster stated that he wanted a tin box made. I inquired how he wished it made; and he said he was going to have a number of small things put into it, and the sides must come up straight.

By the Court. What do you mean by straight?

Witness. I mean, with the edges not turned in. He said small things — say books, &c. He then spoke of having the handles very strong, and on the cover. He wanted it made so he could solder it up himself; for, he said, "You know I can do such things myself." I left him standing with my foreman; I had no further conversation. There was to be only one handle, and that on top. I did n't hear him say when he would like to have it done. I have done business before with Dr. Webster. [Account with Dr. Webster was shown.] This account runs back to 1843. I have not made such apparatus, for any purpose, before. The Doctor wanted the handle made very strong. The box was completed Saturday morning, and labelled, "to be called for," and "charged," and has not since been called for.

Cross-examination. My store is near to the Cambridge Omnibuses, and goes through to Brattle-street. The box was to be made as

though it was to be filled with small things. I went of my own accord to converse with Dr. Webster.

CHARLES P. LOTHROP, *sworn.* — I am in Mr. Waterman's store. I remember the occasion of Dr. Webster's calling to have a small tin box made. I showed some boxes, but they would not answer, as he wanted something to pack small things in. This was the 30th of November, at ten o'clock. He said he wanted to put books, &c., in it. I asked what size he wished. He gave me a piece of paper, describing it as eighteen inches square and thirteen deep. He wanted it made of thick tin. I told him we usually made them of light tin, as long as it was not necessary to keep the air out. He said he wanted it made tight, and with the handle on top. He asked me if I could not have a groove in it. I told him yes, it would be best to have the edge turned in on the top. Mr. Waterman came along at that time, and made some remark, interrupting me, saying, — "You must excuse me, Doctor, for interrupting; but I must ask you about the money you paid Dr. Parkman." Mr. Waterman remarked, that he did not believe that story about Dr. Parkman's going over to Cambridge; that he did n't believe he got further than the tenements in Grove-street. Dr. Webster said, Dr. Parkman took the money in his hand, and darted off. Dr. Webster said there was no doubt about his going to Cambridge, for he saw him going over the bridge. He paused a moment, and then said that a woman had been mesmerised, and had given the number of a cab; and that Mr. Homer had found the cab, and blood in it. I asked if it was FitzHenry Homer; and he said, Yes. That is all the conversation about Dr. Parkman.

I told him, if he would put the things in, I would solder it up for him, if he would bring it. He said, No; that he had the tools, and would solder it up himself, as it was going out of town, as I understood, to be packed. If he was going to solder it, Mr. Waterman said he had better have a holder, or a shingle, to hold the tin down round the edge, while he applied the solder. I told him I would have it done on Saturday night. He said he wanted it before that. I told him I would try and get it done by noon. He said that would answer. He spoke about Dr. Parkman's going to Cambridge, as though he had not any doubt of it.

SAMUEL N. BROWN, *sworn.* — I am one of the toll-gatherers on Cambridge Bridge. I knew the late Dr. Parkman, and also know Dr. Webster. I had a conversation with Dr. Webster, the day of the arrest — the 30th of November. I was at the corner of Grove-street and Cambridge-street, in a grocery store, a little before four o'clock. I saw Dr. Webster pass by the window; I went out, and walked with him down to the toll-house. I asked him if he could recognize a twenty dollar bill I had taken in the morning. I did not show it to him. On the morning of the 30th of November, I was on the Cambridge side; an Irishman came along with this $20 bill, for me to take one cent for toll. I changed the bill for the Irishman, and carried it afterwards to the Boston side. Mr. Hadley told me I had better keep it. Mr. Hadley came down to deposit toll-money, and made it known to the Marshal. This bill was on the Freeman's Bank. I felt interested, and asked Dr. Webster if he recognized that bill. He said, No. The money he paid Dr. Parkman was that which he had received from the students; some in large, and some in small denominations.

We parted a little this side of the toll-house, and I had no more conversation with Dr. Webster. I saw Dr. Parkman the Wednesday or Thursday before his disappearance. Dr. Parkman came to the toll-house, and asked if I had seen Dr. Webster that day. I said, No. This was between ten and eleven o'clock. In about fifteen or twenty minutes, Dr. Parkman came along, in a chaise, with the top turned down, and went over the bridge. That was the last time I saw him. He had been twice, within four or six days, to inquire if I had seen Dr. Webster.

Cross-examination. I first mentioned this conversation with Dr. Webster to Mr. Hadley, as soon as I got to the toll-house. I made no memorandum.

Mrs. Betsey Bent Coleman, *sworn.*—I reside in Cambridgeport. Have known Dr. Webster a number of years; I saw him Friday, the day of his arrest, at my house, at about four o'clock. A servant showed him into the room, but did not bring his name. He inquired, when I came down, at what time I had seen Dr. Parkman last. He asked what day I saw him. I told him I thought I saw him Thursday, the day before his disappearance, as I was sitting at my window. "It was on Friday, you say," said he. "No," I answered. "I was busy on Friday, in the lower part of the house." "How was he dressed?" I told him in dark clothes. I asked him if he had heard anything of him. He said that there had been a coat or cloak fished up, which was thought to be his, which had spots of blood on it. There was a hat found, likewise. I said, then, "O, dear, then I am afraid he 's murdered." He said, "We are afraid he is." He said there was a $20 bill left at the toll-house, by an Irishman. That was all he said then. He asked me twice or three times if I was sure that it was Thursday. I think I saw Dr. Parkman on Thursday afternoon. I saw Dr. Webster to the door. He repeated, at the door, "Was n't it Friday you saw him?" I told him, No. That was the last I saw of Dr. Webster.

Samuel D. Parker, *sworn.* Am attorney for the Commonwealth, for the County of Suffolk. On the 30th of November, there were some twelve or fifteen persons came into my room; among them, Marshal Tukey and Robert G. Shaw. They made some statements about finding some remains at the Medical College. They told me that Dr. Webster was in jail. They asked what should be done. I said, if they were human remains, they should go for a coroner. We next spoke of holding Dr. Webster. I told them that a complaint must be made and sworn to before some magistrate, and that Judge Merrill was the nearest. He was sent for. He objected, on the ground that he was a remote relation to the prisoner. But it was found that it was not near enough to conflict with the duties of his office. It was some ten minutes before any one was willing to make a complaint. At last, Mr. Kingsley said, "I will." I drew up the complaint, stating that Dr. Parkman had last been seen at the Medical College, and that he believed Dr. Webster to be concerned in his disappearance. This was signed and sworn to. I told Mr. Tukey to search the place thoroughly.

Dr. Bigelow and Dr. Martin Gay were sent for, and accompanied me to the jail. We inquired for Mr. Andrews, the jailer. He was not there. Mr. Leighton, the clerk, however, came. He went down

stairs, and brought Dr. Webster up, two men holding him up, and placed him in an arm-chair. Dr. Webster recognized Dr. Gay and myself. Water was handed him, but he could not drink, he shook so. Dr. Gay assisted him, as he was not able to hold the tumbler in his hand. He was greatly distressed, and spoke of his wife and children. I begged him to be calm, as we had not come to harm him; that some discoveries had been made, which required explanation. I understood that one or two of his private rooms had not been opened, and requested him to go to the College. He said he wished to have Mr. Franklin Dexter and Mr. William H. Prescott sent for. I said to him that Mr. ~~Prescott~~ had moved out of town. He replied that his family were at the Revere House. He spoke about the distress of his wife and children, and said, "O, my wife and children!" I told him there was another family who, for the week past, had been in great distress. I was incredulous when I left my house. I told him I hoped to God he would be able to explain all satisfactorily. I told the officers that Dr. Webster was not to be interrogated.

The officers assisted him in getting into the coach. I do not think he could support himself. We went to the College. I got there before he did. I did not speak to him while there, as I remember. We passed into the back room, and some one asked for the key of the privy. Not being found, that door was forced. I remember his asking for water. There was some search for key to privy; but none being found, it was forced. Mr. Andrews called my attention to the fact that bones had been found in the furnace. Messrs. Pratt, Clapp, and Littlefield, went down the scuttle, and the remains were placed on a board. I asked Dr. Gay if they were the parts of a human being, and of the same person. He arranged them, and said they were. Dr. Webster was then four feet behind me, and that would make it about nine or ten feet off. No body spoke to Dr. Webster. I gave orders to have him remanded, and strict guard to be placed over the remains. He was carried out, being still supported. When the privy seat was opened, Mr. Andrews noticed some quickening of the pulse, I believe.

Cross-examination. I went very early next morning to the Revere House.

By the Government. I was at the Police Court when Dr. Webster was brought up for examination. He waived an examination.

JOHN N. CUMMINGS, *sworn.* — I am turnkey and watchman of the jail. I was there when Dr. Webster was brought, after his arrest. Mr. Clapp went away, and afterwards came back and told me to commit him. I then went into the back room, with a key. He was on the settee. I spoke to him two or three times, but he made no answer. He did not appear to have the use of his limbs. We carried him down to the lock-up, and hoisted him up into a berth, and left him. He spoke about his family, and wished water. We then left him.

Mr. Parker came to the jail, and wanted to see Dr. Webster. I took the key, and went down and told him I wanted him to come up stairs, for Mr. Parker wished to see him. He did n't appear to take any notice of what I said. I took hold of him, when he said, "I expected this." I then went and told Mr. Parker that he could n't come up. Mr. Parker, and Dr. Gay, and two officers, Mr. Leighton and Mr. Jones, then went down. Dr. Gay asked him, after we

got down, if he could not walk up stairs with us; but he made no answer.

We then took hold of him. He put his arm round Mr. Jones' neck, as though he was frightened. Mr. Jones and I then carried him up stairs, and sat him in an arm-chair. Mr. Leighton, Mr. Pratt, and myself, went with him to the College. I rode outside. When we got to the College, we helped him out, and up the steps. He laid some few minutes on the steps, before the door was opened. He trembled, and sweat very much. His face was quite red. The weather was cold at the time. After a while, a light was brought. We went into the College.

Down in the little back room, the Dr. stood where he could look into the little room. They found a coat, and the Dr. remarked that it was the one he lectured in. When searching the drawers, he said, "I don't know what they want there; they won't find anything there."

When we went back to the coach, we hoisted him into the coach. He could not help himself at all.

We rode back to the jail. I noticed his pantaloons were quite wet, when I put my hand on his leg. I noticed his under-coat was quite wet, when we took off his over-coat, in his cell. After we got back to the jail, we put him in his cell. He was left on his back, with his head up. We came down twice during the night; about one o'clock, and about half past two. Found him in the same way that he was left, both times. Some one asked about the hatchet, but I can't recollect who it was. He appeared in considerable distress, when in his cell.

GUSTAVUS ANDREWS, *sworn.* — I am keeper of the jail. Remember the night of Dr. Webster's arrest. It was on the 30th November. I had been out that night, and on going to the office, I found a mittimus for Dr. Webster, but no prisoner.

I went to the Medical College, and through the sheds, to the lower laboratory. Quite a number of gentlemen came down stairs, towards the privy. Mr. Parker, I think, pointed to the furnace, and I went to it. I saw what I supposed to be pieces of skull. Dr. Webster was about two feet from the privy door, when I looked round. That was the first I saw of him. The privy door was broken in about this time.

When the remains were brought up, I was within nine feet of Dr. Webster. He appeared much agitated. He appeared to put his feet down, and brace himself up. He stood so until the remains were brought up. I asked Mr. Parker if he wished anything further of Dr. Webster. He said, "I have nothing to say." I went out, and called a carriage. When Dr. Webster was put in, he appeared helpless, and was lifted in. He looked like a man that was faint. The first word he said, in the carriage, was, "Why don't they ask Littlefield. He can explain all this. He has the care of the dissecting-room. They wanted me to explain, but they did n't ask me anything. What will my family think of my absence?" I said, "My dear sir, I pity you; I am sorry for you." He said, "You pity me! You are sorry for me! What for?" I said, "To see you so excited." He said, "Oh, that 's it!" I don't recollect anything more being said, till we reached the jail. We left him in his cell. I don't think he moved much, during the night. In the course of the forenoon, he was able to sit in a chair. Saturday morning, he said, gratuitously,

after he was in a chair, "This is no more Dr. Parkman's body, than it is my body; and how in the world it came there, I don't know." He then said, "I never liked the looks of that Littlefield, the janitor. I opposed his coming there, all I could." I think there was nothing more. He perspired very profusely the night before; that is, Friday night. I have a letter, which was brought up to be sent out. It is a rule of the jail, that all letters must be examined by the officers, and then laid on the table, and I send them. This letter was brought up Tuesday morning, Dec. 1st. It was in Prof. Webster's handwriting. Mr. Holmes, junior, turnkey, called my attention to it. I said I should n't let it go till some officers called for those papers. I went to Mr. Clapp, and told him about the clause.

Other notes of his went, but this I retained. I told Dr. Webster, if he had anything to communicate to his family, of a domestic character, that he did not wish me to hear, he might communicate it to his daughter. I told Mr. Prescott, and Mr. Cunningham, the same thing.

[The letter was here put in, by Mr. Bemis, which Mr. Andrews had stopped at the jail:—]

"*Boston, Monday evening.*

My Dearest Marianne: — I wrote mamma yesterday, and Mr. C., who was here this morning, told me he had sent it out. I had a good sleep last night, and dreamt of you all. I got my clothes off, for the first time, and awoke in the morning, quite hungry. It was a long time before my first breakfast, from Parker's, came; and it relished, I can assure you. At one o'clock, I was notified that I must appear at the court-room. All was arranged with great regard to my comfort, and avoidance of publicity, and this first ceremony went off better than I anticipated. On my return, I had a bit of turkey, and rice, from Parker's. They send much more than I can eat, and I have directed the steward to distribute the surplus to any poor ones here.

If you will send me a small canister of tea, I can make my own. A little pepper I may want some day, you can put up, to come with some bundle. I would send the dirty clothes, but they have been taken to dry, and have not been returned. I send a kind note, I received to-day, from Mr. Curtis. Prof. Peirce and Horsford called to-day. Half a dozen Rochelle powders, I should like. Tell mamma *not to open* the little bundle I gave her the other day, but to keep it, just as she received it.

Hope you will soon be cheered by receipt of letters from Fayal. With many kisses to you all, Good-night, from

Your affl. Father.

My tongue troubles me yet, very much; and I must have bitten it, in my distress, the other night. It is painful, and swollen, affecting my speech, somewhat.

Had mamma better send for Nancy — I think so; or aunt Amelia.

Couple of colored neck-handkerchiefs.

One madras."

Cross-examination. I kept it because of the passage — "Tell mamma not to open the little bundle I gave her the other day, but to keep it." I retained the letter on that account.

ELI C. KINSLEY, *sworn.* — I am post-master of East Cambridge. [Letter shown.] It was dropped into my office Nov. 30th, and I handed it to Marshal Tukey, myself. It is directed to Mr. Tukey, Boston. It was first dropped in, about quarter past ten — between ten and twenty minutes after ten. I brought it over that day, about half past eleven. Its peculiar appearance induced me to bring it in myself, instead of letting it come by the ordinary course of mail.

FRANCIS TUKEY, *sworn.* — That is the first anonymous letter I received. [Showing a letter.] The hand-writing is different outside, from that inside. I received it the same day that it is postmarked, (the 26th.) This other one I received from the post-master of East Cambridge. I cannot swear, but I think it came to me the day of its postmark. I put my initials on them, before they went out of my hands, to the Coroner's Jury. [There was a third letter, but it was not described.]

EIGHTH DAY. — *Wednesday, March 27th.*

[At nine, the Jury came in, and about ten the Court was opened. After the usual calling of the Jury, the evidence for the prosecution was continued.]

NATHANIEL D. GOULD, *sworn.* — I am an old resident of the city. I am not personally acquainted with the defendant. Have seen his hand-writing in signatures to medical diplomas. I have filled the diplomas for several years. The names of all the Professors are attached to these diplomas. In filling those out, I have had occasion to see his signature. I have paid particular attention to Penmanship, both teaching it and practising it, out of a natural curiosity. I have also published on the subject of Penmanship. I have been engaged in teaching it for fifty years.

[Mr. Bemis presented the letters received by Marshal Tukey, and requested the opinion of the witness regarding the writer.]

Mr. Sohier. We object to this presenting letters. The Government attempt to show that certain letters were written by this defendant, by comparison of hands in one letter with the writing in another.

Chief Justice Shaw. They offer the letters to a person who has known his hand-writing for a number of years.

Mr. Sohier. This kind of evidence, if it is admissible at all, belongs to a class of evidence exceedingly liable to error; and we do not intend to take the responsibility of permitting it to be presented, without interposing an objection. This evidence is offered on the ground of the decision in the case of Moody and Rowell. We do not mean to object to that decision, but we trust that the Court will not go beyond it.

That decision sustains three propositions. First, that genuine hand-writing may be presented to the Jury, for them to compare with the writing alleged to be by the same person. Secondly, that an expert may determine and testify, by comparing letters, whether hand-writing be genuine or not. Thirdly, that an expert may be presented to show that there was an attempt at simulating the hand of another.

This case does not come under either of these three propositions. What they now undertake to prove is, that these letters were written

by Dr. Webster, by comparing them with genuine letters. Suppose it was a question of forgery, and Prof. Webster was under trial therefor. Would it be admissible, first to put on the person whose pretended hand-writing it is to testify that it was not his, and then to put on this witness to say that Prof. Webster wrote it. The evidence is not presented to prove that this is the hand-writing of the defendant, but that he wrote it.

Mr. Clifford. I think that the counsel misapprehend the ground upon which we offer this. We do offer it with the intention of showing, by the testimony of an expert, that they are in the hand-writing, using that term in its proper and enlarged sense, of the defendant. For if a person's hand-writing was ordinarily uniform, but he occasionally varied it, the evidence, according to the gentleman's proposition, would be inadmissible; but admissible if his hand-writing was always uniform, — a distinction which no rule of law could be founded upon. We offer certain documents, which we say are in his hand-writing. We offer a person who has made this his particular study.

Suppose that we were to undertake, as my brother has suggested, to show that here was a forged missile. In such a case, he admits that we could present the testimony of an expert. Whereas, we mean to show that a man has attempted to conceal his own hand-writing. Upon principle and the reason of the thing, which is the most stringent, if a man is sitting down to imitate the hand-writing of another, with that hand-writing of another before him, it is possible that he may succeed. But if a man is sitting down to make a hand-writing, he has two processes to carry in his mind: one, to remember all the peculiarities of his own hand-writing, and avoid them; and also to carry in his mind the form of the dissimilar or disguised hand. Upon which of the two propositions would the testimony of an expert bear most satisfactorily? Why, certainly, upon the latter. An expert says, "I am acquainted with hand-writing. I can tell whether it is disguised. I can tell the hand-writing of this individual. There are slight peculiarities that I can explain to the Jury, and satisfy them they are his." I submit that that would be admissible.

I understand the case of Moody and Rowell to go to the extent mentioned by the learned counsel. But there is other authority connected with this subject. In England, it has been admitted, in Cator's case, reported in Espinasse, in a prosecution for libel, that an expert may take the stand, and prove whether it is a disguised hand of the prisoner. And that is precisely the point which we offer here.

It seems to me, that so far from extending the rule of Moody and Rowell, it is clearly within its limits. It is within those limits to put in the testimony of an expert, who has made it his study, and who can explain to the Jury such peculiarities as will tend to satisfy their minds that this party has attempted to disguise his hand, and has failed to do it. I submit that we do not attempt to do more than has been done before. It is proper, I believe, to allude to the decision of inferior courts. In the trial of George Miller, where my learned friends were both engaged in the case, this precise evidence which we propose was admitted. Also in the case of Eastman and Fondy; and not precise experts, but other persons, were admitted to testify to the hand-writing. And I am not aware that there has ever been a ruling the other way.

Judge Merrick. The precise question which is now presented to the Court has not been previously decided; at least, I have no knowledge of any such decision. Where the question has been, whether a particular instrument was made by the party by whom it purports to have been made, experts have been allowed to testify whether the paper appears to be in the common hand-writing or disguised — whether it is the hand-writing of the person who purported to have executed the instrument. And that is all that I understand to have been said in the case of Moody and Rowell. There the instrument was denied. It was asserted that it was not genuine. Then the expert was allowed to testify to the paper presented, purporting to have been that of the party presented. That is very distinguishable from the present case, where the papers presented do not purport to be in the hand-writing of the prisoner. It is not suggested that these papers purport upon their face to be the hand-writing of Dr. Webster.

Mr. Clifford. One of them, we do contend, is Dr. Webster's hand-writing upon its face.

Judge Merrick. Upon the ordinary rules of testimony, not! But the proposition is, that an expert may take these papers, which do not purport to have been written by Dr. Webster, and which it is not pretended are in the similitude of his hand-writing, and may testify whether they are, or not, his writing. It is attempted to be shown, by the expert, that it may be, or is, in the hand-writing of Dr. Webster, by analyzing the letters, and by tracing the form of particular strokes of the pen, which it is thought can connect it with the ordinary hand-writing of Dr. Webster.

And now, when we say that this has never been determined by the Court, while the Courts have uniformly regarded this species of evidence as of a weak, and perhaps of a questionable kind, we submit whether it is not an extension of the rule, to present that which is not upon its face the hand-writing of Webster — that this can be shown to have been done by the prisoner.

Mr. Clifford. I find that my friends on the other side confine the application of their remarks to one particular letter, which is peculiar. I ought to have added, when I was up just now, that we expect to show that that is a document that could not have been written by a pen; that the Jury will be satisfied of that. We also expect to satisfy them, from the testimony of Mr. Gould, that it could only have been written by an instrument which is found in the private room of Dr. Webster. We expect to show that this document was written by this instrument. We expect that the Jury will be satisfied of it, from this witness, — and it presents another ground for the admission of that particular document, which seems to obtain the particular stress of the remarks of the Counsel.

Judge Merrick. I have only to say, that to the rule which has been heretofore adopted we have no objection. But we do object to any extension of the rule. With respect to this last suggestion, I have no opinion to express, whether an expert can or can not show that a paper of that kind was written by the defendant. Certainly he has not laid the foundation for any such knowledge, which would enable him to determine that the writing of one of the papers was made with this instrument.

Chief Justice Shaw. With regard to the precise point presented,

we consider that it is not obnoxious to the objection on the other side. It is sufficient to say, that the experience of the witness qualifies him to testify to this. Papers which have passed under his notice have given him an opportunity to know, by a long and familiar acquaintance, the party's hand-writing. This witness, therefore, now seems to us to be competent to give an opinion, that these are in the hand-writing of the prisoner; and in the use of the term hand-writing, I do not mean the general hand-writing, but whether they were done by his hand. That is to be proved.

Commonly, this question of hand-writing arises in a case of forgery. But there are other cases where this evidence is introduced — that is, where parties are sending threatening letters. There, the question is, whether they were written by him, although not written in what is understood to be his usual hand-writing. So far from following that hand-writing, the object is to depart from it. How much further the Counsel mean to go, we do not know; but at present we think that these letters may be put into the hand of the witness, for the purpose of allowing him to say whether they were or were not written by the defendant.

Mr. Bemis. State whether the "Civis" letter was, in your opinion, written by Dr. Webster.

Mr. Gould. I think it was. There are some circumstances connected with the determination of this question, which may appear trifling to a person who has not attended to the subject. But yet, I consider them important.

When any one undertakes to forge a hand, there are only two ways in which he can do it.

Judge Merrick. Did I understand the Court, that he could do anything more than give his opinion? or is he to state the grounds and reasons for that opinion, which will involve the whole point in issue? The witness has expressed an opinion that this is the hand-writing of Dr. Webster; and he suggests that it is a delicate theory by which he may be enabled to know this. This is somewhat peculiar, and different from the ordinary testimony.

Mr. Clifford. If you will allow me, I will make one suggestion more. I suppose that if the witness is introduced here as an expert, he stands subject to all the rules which the Court may put upon him, precisely as Mr. Tyler, the manufacturer of twine, stood here yesterday. Then, any foundation by which he reaches that result is obtained, I suppose, as in all other cases. The delicacy of the theory, as it is expressed by the learned Counsel, may be a matter of opinion. It may be, that this delicate theory will be made by the witness so perfectly apparent and transparent, as to satisfy every mind that it is palpable and clear, from the nature of things; and I suppose that that is a matter for the Jury to decide, and not to be pre-determined here. I trust that he may be allowed by the Court to stand here, and give the reasons and foundation for his opinion.

Chief Justice Shaw. I do not understand that there is any theory to advance. This opinion is connected with the hand-writing of Dr. Webster; and it appears that, according to that opinion, this is his hand-writing. Now, we think that he could point out to the Jury what circumstances constitute the grounds of that opinion.

Mr. Bemis. I suppose that it will be competent for Mr. Gould, by

way of facilitation to this opinion, to use one of the genuine letters in the case?

Chief Justice Shaw. That will be a subject for consideration hereafter.

Mr. Bemis. State the grounds of your opinion, that this is Dr. Webster's hand-writing, from your knowledge of it.

Mr. Gould. As I observed at the commencement, it is impossible for me to explain the reasons for my opinion, without going into some particulars which may seem very trivial, but which are to me absolutely necessary. I hope that I shall not say anything that is not relevant to to the cause and the subject. In all the practice that I have ever had in writing, I never have been able to satisfy myself that I could make two letters precisely alike. I do not think that I could make two letters that will exactly correspond, if one is placed top of the other. But still, when I have had scholars to teach, I never saw the time, even when I had a large number of them, but what I could designate who wrote any writing that was presented to me. There is some peculiarity which shows that it belonged to a particular individual; and as every one has this peculiarity, it is next to impossible to attempt to get rid of it, when he attempts to disguise the hand.

Mr. Sohier. We understood the Court to rule, that the witness was to point out the similarities of hand-writing.

Chief Justice Shaw. He has not gone beyond that point.

Mr. Sohier (*aside*). He has not reached it.

Mr. Gould. I should be very glad to answer only yes and no. I do not know any other way than to give those similarities of hand-writing in my own way. As it was observed by the Counsel, every man that attempts to disguise his hand must either do it by careless flourishing, entirely letting his hand loose, or else he must be on his guard in every stroke that he makes, in order to prevent its showing exactly who wrote the letter. It is next to impossible for any one to continue through any considerable amount of writing, without making some of those letters which are peculiar to himself, and which he has been in the habit of making in a peculiar manner, and which he may attempt to make in some other manner.

Now, I find in this letter, that there are three letters which are entirely different from what Professor Webster's hand-writing is; or, rather, two letters and a character, viz.: the letters *a* small, and *r* small, and the character *&*, which he almost universally makes in one particular manner, but which in this letter are made differently. He uses the character, without writing the word. In other small letters, we find nothing dissimilar from his usual hand-writing. I find some striking similarity in the letter *I*. [Some checks were about to be shown to witness, but the defence objected to anything but the names. The objection was withdrawn, however. Letter to Marianne Webster shown witness, and memorandum found in prisoner's pocket; also the letter to Marshal Tukey, and Dr. Webster's checks on the Charles River Bank.] I find a similarity in the capital *I* which can hardly be mistaken. The small letters, which I think similar, may not look to the eyes of others as they do to me. As a naturalist may see minute peculiarities in a shell, which might escape my eye, so, in hand-writing, I notice similarities and shades of difference which are not per-

ceived by an unpractised eye. The I, *T*, *d*, in these papers, are all made in the same way. Whenever I examine specimens, I always look for those points that are similar; then I see how many are dissimilar. I commence with the capitals. Almost every letter has a different principle in its formation. The capitals are, many of them, alike, and the first stroke alike; but they differ in their dress or other strokes. In adding these particular strokes, every one differs in his manner of doing it. I next examine the words. The form of whole words, in writing, is fixed in the mind before writing them, just as a single letter is; and when written, may make the same impression on the eye as a letter. I can point out short words, which appear very much alike. I would remark that the figures 1, 3, 4, 9, are alike. The letter *f* in the "Civis letter," when compared with the others, is alike. *Nov.* is alike in all; — the words *from*, *was*, *all*, *if*, *his*, *Boston*; — *B* is not always alike; it varies in the first stroke in the "Civis letter." The letter *Y* placed above the line is a capital.

In my own mind, I have no doubt that the "Civis" letter is Dr. Webster's hand-writing.

[A letter, in a yellow envelope, post-marked November 26, and directed to Marshal Tukey, called the "Dart" letter, was here handed to the witness.]

This hand-writing is somewhat dissimilar from Dr. Webster's. At first sight, it looks as though it were written by a boy; but, on close examination, it shows marks of having been written by one used to the pen. The top part of the *T* and the *F* are made with more pains than Dr. Webster's usual letters, and the direction of the stroke is different. I find some slight difference in the letter *D*. The *Y's* in *you* and *yours* are similar. He usually writes *yours* in full. The *w* in *will* is also similar. He almost universally leaves the small *d* open at the top. I find, in this letter, that it is left in the same way. On the envelope, the *a* in *Francis* and *Marshal* have been corrected afterwards at the top. The name on the inside of the envelope is written by the same hand, and erased. It could not have been done by the finger, for it would have left the ink thicker at the commencement than at the end; and this, too, is quite regular. I think the envelope and the letter are in the defendant's hand-writing, and the letter is written with a pen.

Mr. Bemis (*to the witness.*) You have seen the instrument which has been found, and which is before you. Do you think that that letter [the "East Cambridge" letter] was made with that instrument? [Mr. Bemis showed the witness a stick, about six inches long, around the end of which a piece of cotton had been tied.]

Mr. Clifford. It seems to me, that if there is found on the premises an instrument which is peculiar, the evidence asked would be admissible. Suppose it to be an instrument of some novel manufacture, which is so peculiar that no duplicate of it can be shown to exist in the city, and a document is found which was evidently made by it?

Chief Justice Shaw. That is a distinct proposition.

Mr. Clifford. My proposition is this. We do find, in the possession of the defendant, an instrument. Whether it is novel or peculiar, the principle seems to be the same. Suppose that we find a

letter which it appears might have been made by that instrument, and could not have been made by any other. This is manifestly very strong evidence. The degree of weight to be attached to it, I suppose to be a matter for the Jury, on the exhibition of the facts to be made by the witness. Would not that be admissible evidence?

My associate [Mr. Bemis] suggests this illustration. Suppose that metallic type, of a peculiar character, had been found in Dr. Webster's premises; and that there was no similar type to be found anywhere; and a document, with reference to the matter of Dr. Parkman's disappearance, had been sent to the City Marshal; and an expert comes here to say that that document was prepared with the metallic type. Could not this evidence be presented, in order to show that it was made with the knowledge of the party in whose possession that instrument was found?

Judge Merrick. I understand that this attempt is to show that this witness has made experiments with this instrument, and that he has made a mark similar to those in the letter; and now he comes to testify that that letter was probably written by that instrument. The question is, whether that may be admitted; whether that is competent. We submit that it is not.

Mr. Clifford. It seems to me that the objection goes rather to the weight and value of the testimony, than to its competency.

Chief Justice Shaw. We think that this is entirely inadmissible. The fact that that instrument was found has already been proved; but it is still liable to objection and error.

[A third letter, addressed "Mr. Tukey," post-marked November 30, was shown.]

I have no doubt it is Dr. Webster's. The characters are made by the same hand as the others I have examined. The particular letters differ some, but the words strike the mind by their likeness. The word *was* occurs two or three times; the words *the*, *if*, and capital *E*, the *w* in watch, a *be*, the *but*, have a very great resemblance. The *w* is large, but I don't know as it was intended for a capital.

The word *Boston* looks like all of his. This was not written with a pen, for the reason that the top of the letter looks as if something soft were used; and it could not be a brush, for a brush does not begin a stroke in that way. It is not a pen, because some parts will be stronger marked than others. If you examine with a glass, you will notice it.

The hair-marks of the letters show that the fibres of the materials used in writing it were very fine. This is seen particularly in the letters *i* and *w*. There is no dot to the *i*.

[A memorandum called the "Cunningham memorandum," containing some items of the prisoner's account with Dr. Parkman, was here shown to the witness, who recognized in them particularly a *B* and an *i* of Dr. Webster's.]

In regard to the three lines on the top, I have no doubt that they are by the same hand.

[The two memoranda shown which were in Dr. Webster's wallet when arrested.]

The word *paid* on these is in the defendant's hand-writing. I also notice the figures and the *November*, as of the same character as those I have previously spoken of.

[The erasures on the large note shown.]

They could not have been made with a pen, for the same reasons given with regard to the letters. I see in them traces of a fibrous substance. They were not made with a pointed instrument.

[The $400 note shown.]

The marks of the fibrous substance are here very distinct.

[The Court here took a recess for a few minutes, and the Jury were allowed to retire.]

Cross-examination. I have seen these specimens of writing before to-day. I have seen other anonymous letters, which I think were all addressed to Mr. Tukey. The letter addressed to Mr. Tukey, which I have examined, was evidently written in haste. The "Civis" letter is one which is not disguised to *my* eye. It is in Dr. Webster's usual hand-writing; though somewhat rounder, if anything, than Dr. Webster's usual hand.

It is impossible for me to say a whole letter is disguised. If it was shown to me, I could not say it was intended to be a disguised hand. I observed that there were, in the "Civis" letter, three letters dissimilar to Dr. Webster's hand-writing. I could n't take my oath that the others were the same as his hand-writing. I should say the other letters were his hand-writing, but could not swear to every separate one; but as a whole.

I only say that they all appear like his ordinary hand-writing, except the letters which I have enumerated; but I cannot say he intended to disguise them. I could n't say all the excepted letters are alike. The *d's* are peculiar. I think here he has made his *d's* as he has usually done, with a curve to the left. He usually makes a *u* for an *a*, and does not connect the opening at the top. I have examined a number of his specimens. I have not seen some of his *a's* joined at the top, in his genuine hand-writing. The letter *R* is made without a hook to it, as we say. Sometimes he makes an *R* that looks very much like a *K*. In his usual writing, he makes a character which one would not consider an *f*. There is not, at the first sight, an appearance of its being disguised. Without something in the letters very unaccountably formed, I do not pretend to say any hand is disguised. I first take some of the ordinary hand-writing, and then compare the two. I do find the writings of some other persons where there are some things the same. I have taken up writing, casually, wherever I have been — anybody's to compare with. I have compared these letters with even the writing of my own family. The "Civis" letter is not *exactly* like Dr. Webster's hand-writing, when you come to examine it closely. It struck me, at first sight, as being his.

The "Dart" letter does not appear like Dr. Webster's general hand-writing.

[The letter called the "Dart letter" was here handed to the witness.]

The letter *T* is peculiar. The *o's* are similar to Dr. Webster's; so are the *r's*. The *a* was similar, at first, but connected afterwards at the top. The *w* and *f* are similar also. The *f's* are all peculiar, and not peaked at the top, and are also peculiar in the final stroke. I think it an unnatural hand; for when the letters are made *very* strangely, and others — the same — not, then I judge that it must be feigned. I think it is a disguised hand, and Dr. Webster's.

[Here the letter, post-marked East Cambridge, and directed to Marshal Tukey was shown to witness.]

The word *was*, as a whole, looks like Dr. Webster's. So do the words *is*, *be*, *Boston*, *but*.

There is a similarity between them. They have the same appearance. The writing was not done with a pen. If I had the instrument before me, I could tell, at sight, whether it would make such a mark. My own opinion is positive that it was written by Dr. Webster. I only say that, take it as a whole, and the peculiarities I have noticed, it looks like Dr. Webster's. I cannot express an opinion more than I have, from the specimens I have seen. I have an opinion that the East Cambridge letter, and that of November 26th, were done by the same person as those written with a pen. I should not think any man could write a disguised hand twice alike, They sometimes vary essentially, but always more or less. I have not taken into consideration at all the other letters of Dr. Webster which I think disguised, in forming my opinion. I have probably examined a dozen times hand-writing not written with a pen.

GEORGE G. SMITH, *sworn*. — I have given attention to penmanship. Have known Dr. Webster many years. I have known his hand-writing by seeing incidentally the diplomas, and by notes I have received from him. I have a general remembrance of his signature. As an engraver, I have been obliged, in *fac similes*, to examine minutely specimens of hand-writing, and have sometimes been called into Court to testify in regard to hand-writing.

[The "Civis" and the "Dart" letters, together with the letter to Miss Marianne Webster, and that sent to Mr. Ralph Smith, and the memoranda found in Dr. Webster's possession, were here handed to the witness.]

I have not seen the one to Miss Marianne Webster before, but the others I have. I have seen the "Civis" letter before. My opinion is, that it is Dr. Webster's hand-writing. I am very sorry to say that I feel quite confident of this. With regard to this "Dart" letter, I find certain peculiarities, but I do not feel prepared to express myself so confidently as in regard to the other. I think it might be his; but I am not certain, though strongly confident. I have no doubt that the envelope and the writing inside are the same. The erasures look to me as though they were partly made by passing a finger over it, and the rest by something else. Not a pen though, sir!

[The East Cambridge letter was here shown to the witness.]

This looks like Dr. Webster's hand-writing, and like the other. I think it like Dr. Webster's hand-writing, though I am not certain that it is his. This letter was not written with a pen or a brush. We find a very peculiar softening of the shade. If, then, it was done with a pen, it must necessarily be full of ink, and there could not be that softness of shade at the commencement. It was made with some soft instrument. I do discover marks of fibres.

[The two notes were here shown to the witness.]

Those erasures I do not think were made with a pen. I can discover traces of fibres in them. I have examined the checks before. I have examined quite a number of specimens of Dr. Webster's hand-writing.

Cross-examination. The erasures on the notes could not have been

made with a pen. If the pen had been soaked very soft, it might possibly have been done.

[The Counsel makes a heavy mark with the back of a soaked pen, and shows it to the witness.]

There is a material difference in the two, because in yours there is lacking that softening shade, and the marks of fibres. It is possible, if there were cotton in the ink, that there might be this appearance. The "Civis" letter has several peculiarities; one in the termination of a *d*. Another one is *d* in the middle of a word. Another is the character *&*. I noticed he wrote *and* in full first, and then after he made one of his own *&'s*, and then altered it. There is a general appearance which I can't explain, but it impresses the opinion on my mind that it is Dr. Webster's. The *d's* in the beginning and end of the words differ. It is undoubtedly a disguised hand, though not to a great degree disguised. I judge from the peculiarity in the separation of the *a* in the middle of a word. It is separated from the first part, but joined to the last part. This is joined. I think it must have been purposely disguised. I think so from these specimens submitted to me. The most changed letter I could not determine, without sitting down, with a great deal of care. It is like the Doctor's, in some respects, and not like it in others; but there is enough to convince me that he wrote it. I might recall other things, if I were to refer to my memoranda, and have time.

[The following anonymous letters were now put in: —]

Boston, Nov'r 31, '49.

Mr Tukey,
Dear Sir,

I have been considerably interested in the recent affair of Dr Parkman, and I think I can recommend means, the adoption of which might result in bringing to light some of the mysteries connected with the disappearance of the afore-mentioned gentleman.

In the first place, with regard to the searching of houses, &c., I would recommend that particular attention be paid to the appearance of cellar floors; do they present the appearance of having been recently dug into and covered up again; or might not the part of the cellar where he was buried have been covered by the piling of wood? Secondly, have the outhouses and necessaries been carefully examined; have they been raked sufficiently?

Probably his body was cut up and placed in a stout bag, containing heavy weights, & thrown off one of the bridges, — perhaps Craigie's. And I would recommend the firing of cannon from some of these bridges, and from various parts of the harbor & river, in order to cause the parts of the body to rise to the surface of the water. This, I think, will be the last resort, & it should be done effectually.

And I recommend that the cellars of the houses in East Cambridge be examined. Yours respectfully,

CIVIS.

[The following one is the letter post-marked November 26, directed to Francis Tukey, City Marshal. The envelope also contained the name on the inside, which was still legible, through an erasure.

Dr Sir —
You will find Dr Parkman
Murdered on brooklynt
heights. yours, M. —
Captain of the Dart.

[The next one read was one directed to "Mr Tukey Boston," taken from the East Cambridge post-office by the post-master, and handed to Mr. Tukey in advance of the mail. It was in a light pink envelope, looking something like chemical filtering paper. The address on the outside was done in italics, as large bundles are marked.]

"Dr Parkman was took
on Bord the ship herculun
and this is al I dare to say
as I shal be kild
Est Cambge, one of
the men
give me his watch
but I was feared to
keep it and throwd
it in the water rigt side
the road to the
Cam bige to
Bost."

[The last letter was written on both sides of a small scrap of white paper, with the edges roughly torn.]

Fisher A. Boswell, *sworn*. — I am a physician, and reside in Grafton, Worcester County. I attended Medical Lectures, two courses, in 1847 and 1848. I knew Dr. Parkman, and also Mr. Littlefield. The latter was janitor. I had occasion to go to Medical College 23d Nov., to see a student. It was between half past one and two — near two. I went up Cambridge-street to Blossom-street, then into Fruit-street, and down College-court. I went up the front steps, the east stairs, and found the door a-jar; and from the position of the door, I concluded the lecture was not out. I immediately passed out, and went down towards the dissecting-room entry, as I did not wish to disturb the lecture. As I passed the foot of the stairs, I met Dr. Parkman right at the corner. He was going up the same stairs that I was coming down. As I passed round the corner, I saw the Dr. nearly at the top of the stairs. I soon came up into Court-street, and did an errand; then went, about three o'clock, back again, and rang the bell. The janitor made his appearance at the front door, in three or four minutes. I recognized him. I inquired if a student named Coffrain was there. He said he did not know the gentleman; but if he was there, he was in the dissecting-room. I asked him if he would speak to him. He said he was busy, but asked if I knew the way. I said I did.

I went down, and found Mr. Coffrain in the dissecting-room. I thought Mr. Littlefield was in his usual working-dress. I fix the time, because on the 21st of November I borrowed some money on my note, payable in four months. The next day I came from Grafton to Boston, and was too unwell to go out to do any business. The next day, the 23d, I went to dine in the rear of 684, Washington-street,

below Dover-street, in Cotton-place. I ate my dinner at half past twelve o'clock, and went directly to the College. The 24th, on Saturday, I was over to South Boston, on business for my brother, the Rev. Mr. Boswell. I first heard of the disappearance of Dr. Parkman on Saturday afternoon, at the depot when I was going up to Grafton. I saw a notice of it in the paper, the same night. I remembered the circumstance then, of my seeing him, and mentioned it at the depot. I was not apprised, till yesterday, that I would be required here. I was informed yesterday, at eleven o'clock, at my house.

[The Prosecuting Attorney here informed the Court that the evidence on the part of the Government was now all in; and it wanting but a few minutes of two o'clock, the Court adjourned to half past three, P. M.]

AFTERNOON.

OPENING STATEMENT OF MR. EDWARD D. SOHIER, IN BEHALF OF THE DEFENDANT.

May it please your Honor, and Gentlemen of the Jury:

I am aware that it is usual — perhaps it may be considered as imperative upon the Counsel, in a case like this — to call the attention of the Jury to the situation of their client; and to comment, in strong language, upon the importance — the vast importance — of the interests which he has at stake. But, Gentlemen, I shall not do this; I cannot do it.

I fear much, Gentlemen, that, should I permit my attention here to wander from the cause to the party, from the record to the dock, I might be lost. I might, perchance, perceive nothing but the man who, for more than a quarter of a century, has been a respected Professor in that University which is the pride of our State; a respected Lecturer in that College which is one of the boasts of our city; the man under whose instruction many now present at this trial were educated, myself among the rest; — I should see him struggling for his life; struggling for his reputation; struggling to avert infamy from himself and from his children, in that self-same dock where we have been accustomed to see felon after felon, to abide the judgment of the law. I might think of these things, Gentlemen, and I might wander from the case.

I must, on the contrary, rather follow — though necessarily it needs must be at a long and humble distance — in the footsteps of the eloquent Counsel who opened this case in behalf of the Government; and I must allude, Gentlemen, briefly, to our duties here; to our relative situation, and relative responsibility to the cause; the rules of law applicable to the charge involved in it; and the rules of evidence, as applicable to its long details of circumstantial testimony.

We are here, Gentlemen, as the learned Counsel told you, in the discharge of our various duties as officers and as ministers of the Court, to discuss and determine that one great question, which, for months, has absorbed the attention, and has agitated to their very lowest depths the feelings of a great community; to wit, — Is the life of Professor Webster, now the prisoner at the bar, forfeited to the

laws of his country, upon the ground, and for the reason, that it has been proved here, beyond a most reasonable doubt, that he has been guilty of one of the most horrible offences that can be found in the long, dark catalogue of crime? A grave and serious duty has devolved upon us — has devolved upon you, the judges, and upon us, who represent him in this more than mortal struggle. It devolves upon you to say, whether Professor Webster shall depart hence to his family, and there remain, what he ever has been to them, the very centre of their affections, the very object of their idolatry; or whether he shall depart hence to the scaffold, leaving to that family a name which they would prefer to bury in the grave — which they would conceive to be their greatest curse, their only disgrace. Yes, it does devolve upon you to say, whether the fire upon his hearth-stone shall burn brightly, or whether your breath, Mr. Foreman, when you pronounce the verdict, shall extinguish that fire, so as to cause all ~~his honors~~ to be scattered to the winds — to be forgotten by his friends, and ~~to be an aversion to~~ his enemies.

This duty does devolve upon you; and, if you err, you see the victim. He it is, and his is the family, who must be offered up as an atoning sacrifice to that error, unless, indeed, you err on Mercy's side — upon the side of that quality in which it is permitted man to approach nearer than in any other ~~way to his~~ God — on a side where no ~~woman's~~ groan, no widow's sob or orphan's tear, bears witness to it.

And here, and here only, is your lot happier than ours. If we err here, we can err in no safe place. We must answer it to the prisoner and his friends. We must answer it to an exacting and a scrutinizing profession. We must answer it to our consciences. There is no place for us to err in. There is a place for you.

Standing, then, as we do, and as you do, engaged in one and the same duty, to wit: In examining, discussing, and deciding this great question, it behooves us to stand in no antagonistic position to each other; but, on the contrary, to aid and assist each other, so far as in us lies, and as we can truly do it. Ill would it become us, by any management and chicane, to obtain a verdict in this case; and ill would it become you to permit this defendant to suffer by any error of ours.

It is your duty, and your right and privilege, to constitute yourselves the Counsel for this defendant; to see that he has the benefit of everything that could be urged in his defence; to see that he shall have the evidence presented in every possible view that can be taken of it, whether we assume those views or not. And it is your duty to remember, and never for a moment to forget, that, in the words of your oath, it is this defendant whom you have in charge. Yet, it is not this defendant only, but this defendant's family, whom you have in charge.

And here I pray that you would allow me to make a few remarks, upon a subject I would not address men like you upon, on any less important cause, or on any less momentous occasion. But, in the name of this defendant, and ~~upon~~ all that he has at stake, I must entreat you to commence the examination of this case, by examining your own minds; and that you do it with a strong, settled, stern determination to eradicate everything that partakes aught of prejudice, or savors of suspicion.

I remember well that, before you took your oaths of office, by virtue

of which the law has permitted you to exercise this trust, you each said that you were not sensible of prejudice. But, can you say so now — now that we stand at the end of this week of testimony, which the Government have been pouring in upon us? Are you sure that you ever could say so, without an accurate and scrutinizing examination? What safety is there in the fact that a man is not sensible of prejudice, when we all know that it is the very essence and the very quality of prejudice, to lurk unseen in the mind of man, blinding his perceptive faculties, weakening his reasoning powers, distorting his judgment, so that the very source to which we look for safety and protection becomes a source of ruin. There is no safety in the fact that a man is not sensible of prejudice. And I ask you to commence the examination of this case, by discarding prejudice. No man can be safe, without seeking to remove it. Why, if prejudice exists in a single mind, it is contagious; it is communicated by the intonation of the voice; it flies from eye to eye, and is imparted, as by an electric shock, from hand to hand; and there is no safety. We ask you, then, to search for it, and to extirpate it.

As between the prisoner and his Jury, as between man and man, speaking as between friends, I do not pretend to say that we have felt, or can feel, positive, that there is no man upon your panel untainted by prejudice. By no means are we to forget, Gentlemen, or are we to suppose that you have forgotten, the great excitement which existed in this city when it was first bruited abroad that George Parkman was murdered. Do we now forget that men then quit their avocations, — that they were clustered together in the corners, in the doors, in the stores, the houses, and the churches, — and that their conversation was upon this one point, and upon no other. Have we forgotten the great indignation that was excited in this community — so creditable to the community, but so dangerous to the defendant — when it was first announced that his body was found in the Medical College, in the laboratory? Have we forgotten the prejudice against Prof. Webster? Have we forgotten these things? By no means! They are burned into our memories, and we shall not forget them.

Are we to say that it is a certain and fixed positive fact, that there can be no prejudice? By no means! And therefore it is, that after you have heard and listened to the Government evidence, we ask you, in the name of the defendant, to examine your minds, and to examine his side of the case free from all taint of prejudice.

I have thought, Gentlemen, that, in opening this case, I might perhaps the best diminish the labors of the closing Counsel — instead of stating to you minutely, or in detail, the circumstances which we intend to prove here, in defence — by calling your attention, first, to the rules of law which are descriptive of the offence charged; what it is, Gentlemen; what the definition is of the offence, as the Government have charged it against him.

Secondly, that I should call your attention to the rules of law, as applicable to the manner in which that offence is charged; that is, to the indictment. Thirdly, Gentlemen, that I should call your attention to the nature of the Government's evidence, and to the rules of law applicable to that kind of proof. Then, Gentlemen, that I should state to you, with great brevity — and merely by scheduling together in heads — what the facts are which we intend to give in evidence;

which facts, when proved, taken in connection with such of the Government's facts as you shall conceive to be entitled to credit — on which you can rely with any confidence — will constitute the entire mass of evidence on which you will eventually have passed.

First, then, with regard to the rules of law which describe the offence charged. The offence charged here, Gentlemen, generally, is murder. That is the offence charged in the indictment, the murder of George Parkman. We then wish to inquire and ascertain what are the rules describing this offence, so that we may know when it has been proved, and when it is left in doubt.

Murder is a division of homicide; the word homicide extending to every possible killing of a human being. If a man is killed under any circumstances, anywhere, or by anybody, the word homicide covers that act. A homicide must, necessarily, at once be divided into two great divisions: first, that which is criminal, and, therefore, punishable; secondly, that which is not criminal, and, therefore, which is not punishable by the law.

Now, criminal homicide, which is the only species of homicide with which we now have anything to do, is divided into two parts — into two divisions: first, murder, which is punished capitally, by the death of the offender; secondly, manslaughter, which is not punished capitally, but which is punished ignominiously, though not with death. These two divisions constitute homicide.

Now, inasmuch as this indictment charges Professor Webster with murder, and inasmuch as it is always competent for a Jury to acquit of murder and charge with manslaughter, or acquit of both, every man who is indicted for murder is in the same position as if he were indicted twice; first for one offence, and then for the other.

The first question is, What is murder, taking it by itself? The second question, then, will be, What is manslaughter, taking that, too, by itself? Murder is defined to be "The killing of any person with malice prepense or forethought, either expressed or implied by law." Two things are necessary to constitute murder: first, the killing; secondly, malice. And this definition is precisely no definition, because it gives you no idea of what is intended by the word murder, unless you have an accurate and well-defined idea what the meaning of the word malice is, as used in this connection.

Malice is divided, by all criminal writers, into two counts: first, what is called expressed malice; and, secondly, malice which is implied. Those are the definitions of the word malice. Express malice! When we use that term, we mean what is always meant by malice in its common out-door use. It means a wicked disposition and perverse mind, which does induce a man, or may induce him, to commit a certain act.

"Express malice," say the books, "is when one person kills another with a sedate and well-formed design; such design being evidenced by the noticed actions, antecedent menaces, former grudges, and an attempt to do great bodily harm." This is easily understood, without being dwelt upon at the bar.

We come next to what is meant by what is called implied malice. And here the definition is not so easy. Implied malice is where the malice is implied by the law. Now, it is a theory of the law, that it punishes not so much the overt act, as it does the wicked and depraved

mind which prompts to that overt act. It punishes the mind, and the wicked and perverted intention, as much as it does the overt act. But you will ask, at once, how is the law to arrive at the mind of man? — How shall it dive down into its hidden recesses, and bring up the malice? It cannot do it, except by judging of the mind by the acts, considering them to be the fruit of the mind. Then, Gentlemen, by the fruit, the law undertakes to know the mind.

The law, then, Gentlemen, has adopted certain acts which it alleges to be, and assumes to be, evidence of latent malice. The law says, that when certain acts — and we now confine ourselves to homicide — when a homicide is committed in a certain manner, under certain circumstances, malice shall be implied from the act; and that is the mode in which the law arrives at this matter of implied malice. When we undertake to define it, all that we can say is, that when certain acts are committed in a certain manner, and with certain means, then the act is implied. If we would know what it is, we must ascertain what are the acts and the circumstances. What are the acts? We must arrive at what the malice is, by saying what the acts are, from which it is to be inferred.

What, then, are the acts from which the law will imply malice, in this matter of homicide? For we are to consider only this one single matter, *malice* in *homicide*.

Malice, Gentlemen, is implied by law from any deliberate and cruel act, — I pray your attention to these words, *from any deliberate cruel act*, — committed by one person to another, however sudden. Therefore, where one person kills another suddenly, without any, or without considerable, provocation, the law implies malice. Malice is inferred from a deliberate and cruel act, as where one kills another without any, or without considerable, provocation.

When, therefore, you ask what malice is implied by law, you must look at the acts from which the law says malice is to be defined. And that is the only way in which it is to be defined; a deliberate cruel act, without any, or without considerable, provocation; and then the law is, that it is implied malice. That is the definition which I shall state to you, for the purposes of this trial.

Having stated this, you see shadowed out, at once, the real distinction between implied malice and manslaughter. For one is almost the reverse of the other. Murder from implied malice, is a deliberate and cruel act, without any, or without considerable, provocation. Now, manslaughter as I have shown to you, is the reverse.

Manslaughter is not deliberate. It is a sudden act. It is not a cruel act. But it is done in the heat of blood. Manslaughter is not without provocation, but with it. And therefore, in terms, it is most distinctly the reverse of murder from implied malice. Whenever death ensues from sudden transport of passion or heat of blood, if upon a reasonable provocation, and without malice, or if upon sudden combat, it will be manslaughter. That, Gentlemen, is the definition of manslaughter; and here is shadowed out the line between the two. One is considerate, deliberate, and cruel, without provocation. The other is inconsiderate, sudden, in the heat of blood, and with provocation, or sudden combat, one of the two.

Now this may be a very narrow line of distinction, but it is not to be lost sight of by a Jury. For on one side is life, on the other,

death: life, it may be, encumbered with long and severe punishment; but still it is life, — life which is clung to — life rendered radiant with hope. And though this line may be a narrow line, and though the circumstances may fade into each other, they are not to be lost sight of. And as one is deliberate, cruel, and without provocation, the other is hasty, in heat of blood, and with provocation, or sudden combat.

Thus much, Gentlemen, for murder from implied malice; and thus much for the general definition of manslaughter. But, Gentlemen, it is necessary to go a little further here, as I have undertaken to give a definition of both of these offences. The law states, as I have already remarked to you, that manslaughter is in heat of blood, with reasonable provocation. Now the question arises, what is sufficient provocation to reduce a murder to a manslaughter? What does the law deem to be a reasonable provocation? To answer this, we must go to the books. And it is easy to answer it from the books, because the different acts of provocation have been well known and long defined, for numerous years.

In ascertaining, Gentlemen, what is deemed to be a reasonable provocation, the law always regards the weapon, or the instrument, with which the homicide is committed. For you will see, at once, that one kind of provocation might be considered sufficient to excuse a blow with one weapon, which may be very insufficient to excuse a blow with another. The provocation that might excuse a blow with a stick, might be insufficient to excuse it with an iron bar. In considering what is a reasonable provocation to extenuate the murder into manslaughter, it is necessary to ascertain what the weapon is; because from the weapon the provocation is to be estimated. Now, when we speak of deaths by a weapon, they may be divided into death from two general classes of weapons: those which are likely to produce death, and those which are not; those which are deadly, and those which are not. Now, that is the question raised at once, What is considered a reasonable provocation to reduce a homicide from murder to manslaughter, where a deadly weapon is used? And then, what is a sufficient provocation to reduce it, where a weapon *not* deadly is used? I am dwelling upon this, in regard to the manner of death, because by and by it will become material, when it is necessary to speak — when we come to speak of the indictment. It may be essential to our positions, by and by.

What is a reasonable provocation for the use of a dangerous weapon? and then for a weapon not dangerous? I will answer the first question from a book. And I read from East's Pleas of the Crown. "Any assault, made with violence or circumstances of indignity, upon a man's person, as by pulling him by the nose, if it be resented immediately, by the death of the aggressor, and it appears that the party acted in the heat of blood upon that provocation, will reduce the crime to manslaughter."

What will reduce the crime of killing, if it be done with a deadly weapon?

Chief Justice Shaw. What section is that?

Mr. Sohier. Chap. 5, sect. 20. Now, in this connection, Gentlemen, I will merely read from here an abstract from a case which illustrates this position, — an assault made upon a man's person. Take Lanure's case, as it is called, where a person was riding

upon a highway, and another individual whipped his horse out of the track. Then the rider killed the aggressor. That was considered as manslaughter, because the rider was considered as having reasonable provocation.

Chief Justice Shaw. Whose case was that?

Mr. Sohier. It was Lanure's case, in the same section. I will refer to Taylor's case, the same chapter, and twenty-sixth section. "Three Scotch soldiers were drinking together, in a public house; some strangers, in another box, abused the Scotch nation, and used several provoking expressions towards the soldiers; on which one of of them, the prisoner, struck one of the strangers with a small rattan cane, not bigger than a man's little finger. The stranger went out for assistance; and, in the mean time, an altercation ensued between the prisoner and the deceased, who then came into the room, and who, on the prisoner's offering to go without paying his reckoning, laid hold of him by the collar, and threw him against a settle. The altercation increased; and when the soldier had paid the reckoning, the deceased again collared him, and shoved him from the room into the passage. Upon this, the soldier exclaimed, that he did not mind killing an Englishman more than eating a mess of crowdy. The deceased, assisted by another person, then violently pushed the soldier out of the house; whereupon the latter instantly turned round, drew his sword, and stabbed the deceased to the heart. Adjudged manslaughter."

That illustrates the position. An assault here existed; turning him out of the house. Upon the heat of blood, occasioned by this assault, he killed his opponent; and it is held to be manslaughter. I state these, as among the provocations to reduce the offence to manslaughter, if the homicide is committed with a dangerous weapon.

The next question is, What is considered a sufficient provocation for a homicide which is committed with some weapon not likely in itself to produce death? The whole doctrine is summed up in East's, and I now read from the original section, chap. 5, sec. 20: "Words of reproach, how grievous soever, are not provocation sufficient to free the party killing from the guilt of murder; nor are contemptuous or insulting actions, or gestures, without assault upon the person; nor is any trespass against lands, or goods. This rule governs every case where the party killing, upon such provocation, made use of a deadly weapon, or otherwise manifested an intention to kill, or to do some great bodily harm. But if he had given the other a box on the ear, or had struck him with a stick, or other weapon, *not likely to kill*, and had unluckily, and against his intention, killed him, it had been but manslaughter."

And this, Gentlemen, is the answer to that question, What is reasonable provocation? Always look at the weapon. If it is a deadly one, it must be an assault upon a person; if not a deadly one, words or actions are sufficient to produce it.

The next question is, What is meant in the law by sudden combat? For the rules state this: "~~Homicide~~ is a killing, on reasonable provocation, or on sudden combat." What, then, is sudden combat, as it is stated? I will answer by reading from the same book, sec. 24, of the same chapter. "There are cases where, upon words of reproach, or, indeed, any other sudden provocation, the parties came to

blows, and a combat ensues, no undue advantage being taken or sought, on either side; if death ensue, this amounts to manslaughter. And here it matters not what the cause be, whether real or imagined, or who draws or strikes first, provided the occasion be sudden."

It is thus, Gentlemen, that if two persons get into what is called a combat with each other — no matter which begins it — if they get into the combat, and then, being heated by the combat, one kills the other, then the law considers the frailty of human nature, and, under such circumstances, the offence is reduced from murder to manslaughter. An example is given. A uses provoking language towards B, who thereupon strikes him, and a combat ensues, wherein A is killed. Held manslaughter; for it was a sudden affray, and they fought upon equal terms.

But this has nothing to do with it, except when they commence. If they get excited, on equal terms, and they commence their quarrel with the fist, and afterwards have some other weapon, it is excused, as caused by heat of blood, excited by the body.

This is stated, perhaps, a little stronger in Whiteley's case, which I cite from Lewis' Reports, page 175, in which the Justice says, "When persons fight on fair terms, and merely with fists; where life is not likely to be at hazard, and the blows passing between them are not likely to occasion death; if death ensues, it is manslaughter."

These authorities, which I have stated, show the real distinction between murder from implied malice, and manslaughter, — the one being, as I have said, the reverse of the other: one being voluntary, deliberate, and without provocation; the other being hasty and on provocation, or with a sudden affray. The provocation being in violent assault, when a deadly weapon is used; the provocation being words, when a weapon not deadly is used, and when, they being excited by the combat, one chances to destroy the other. These are the definitions which I bring to your mind.

Professor Webster stands charged with murder and manslaughter. If he committed the murder, it must have been either express or implied malice, or that he killed him in a deliberate and cruel manner, without reasonable provocation, malice being judged of by the manner and the want of provocation, and the provocation being judged of by the weapon. And hence follows the extreme and vital importance, in a case of this kind, of the Government's alleging and proving the manner, beyond all reasonable doubt; if it is the manner, the manner of death, the manner in which the homicide is committed, which creates this crime of murder, from which all the distinguishing marks are to be drawn between murder and manslaughter. And therefore it is that I have been over this — that we may bear it in mind, and apply it, when we consider this part of the case.

When the Government say that Professor Webster killed Dr. Parkman with implied malice, they say he killed him cruelly, deliberately, and without provocation. And this is to be judged of by the manner. When the Government says that he committed the act of manslaughter, then it virtually alleges that he killed him not deliberately, but in heat of blood, and with some provocation. And there, Gentlemen, as we apprehend, is the definition; and this is a statement of the rules of law defining the various offences which are embraced virtually under this indictment.

I come, then, Gentlemen, to state what we conceive to be the rules of law applicable to the manner in which the crime shall be charged; that is, the rules of law applicable to the indictment.

In examining, in criminal cases, it is essential that the Jury should bear in mind, not only what the rules are defining the offence charged, but they should bear in mind, particularly and strictly, what the various particulars of the offence are which is charged; not only what the offence is, in general, but what the particulars of the offence are.

Gentlemen, it is to be borne in mind — and this is a rule of law which is essential absolutely to the safety of every one — that it is a matter of no consequence how many crimes a man has committed, if he has not committed the particular crime set forth in his indictment. It is a matter of no consequence, if he has committed the crime charged, if he has not committed it ~~in the time~~ charged. This is the position which we take, and it is a rule of law intended for the protection of the citizen; and if it is broken in upon, the man has no safety. If a man is to be tried for particulars of offence, or for an offence in which the facts are erroneously set forth, no man can provide for his defence; and therefore it is that no man shall be tried for any offence, unless that offence is fully, substantially, plainly, formally, set forth. Not only must the statement be full, but it must be plain, so that every one shall understand it. Not only must it be substantially, but it must be formally, made. If this rule is departed from, there is no safety for any one.

It is essential that we should examine this indictment, and it is essential that we should understand precisely what it is that the Government undertake to charge the defendant with. What are the particulars of the offence which Professor Webster is now set at the bar to answer? These particulars must be fully, plainly, substantially, and formally, set forth; and I must, therefore, ask your attention to the indictment.

This indictment contains four counts; that is, it has set forth, in four distinct forms, the charge, and the Government are at liberty to prove any one. First, the allegation is, that the prisoner, Professor Webster, killed Dr. Parkman by striking him with a knife. Secondly, that he killed him by striking him with a hammer. Thirdly, that he killed him by striking him with his fists and his feet, and striking him against the floor. Fourthly, that he killed him in some way, or by some means, instruments, and weapons, to the Grand Jury unknown.

Now, may it please the Court, and Gentlemen of the Jury, I must ask your attention to the rules of law applicable to this indictment. And I shall, in the first place, ask your attention to the rules of law, as I conceive them to be applicable to the three first counts, which can all be readily considered together.

In an indictment for murder, Gentlemen, it is an imperative rule, that *the means of death shall be accurately described.* And when we say that a thing is to be accurately described, we mean that the Government shall prove it as they have described it. They shall state the means of death accurately; that is to say, their proof shall sustain their statement of the means of death.

Now I ask your attention to another position. I understand it to be a well-settled rule of law, that there are certain *means* by which

human nature may be overcome, which have been settled and adjudicated by the law to be totally separate and distinct from each other.

One very large class of means of death is embraced under the head of striking with a weapon. Another class, Gentlemen, very distinct — distinct upon authority — is striking a man against an object. That is another class, as I apprehend. And there are various other means of death, well distinguished from each other, such as poisoning, strangling, burning, starving, and others. I put this by way of illustration; and I put the position, that these particular means of death are distinct and separate from each other, to wit, striking a man with a weapon, striking a man against an object, poisoning a man, strangling a man, burning him, starving him, exposing him, and the like. They are separate and distinct means of death.

Whichever of these means which I have mentioned — and you will notice I say *means* — whichever of these means the Government see fit to adopt, and charge as the means used, the Government is bound to prove, and prove beyond reasonable doubt — the particular means. Now, under this class of *means*, as I call it, producing death by striking, it is usual for the Government to allege some particular weapon. But it is not necessary that the particular and express weapon should be proved. Any weapon which will produce death by the means stated, that is to say, by the striking, would answer in proof, instead of what the Government charge.

For instance, suppose the Government charge that the man produced death by means of striking with a knife, and it turns out that he struck with a hatchet; it is sufficient, because the means, the class, is spoken of; and if it turns out that it is produced by some other weapon, the case is made out. For instance, the Government charge Professor Webster with striking with a knife, and it turns out that he actually produced death by a hammer; the case is proved. But, if they charge that he did it in a separate manner, to wit, by strangling, or by seizing a man, and striking him against a door, and the death is produced, as before, by the blow of the hammer, the indictment would not be sustained. The weapon is of no consequence; but that such a means were used, is of consequence, and must be proved.

I will refer to Kelley's case, in Moody's Crown Cases, page 113; also to Thompson's case, in the same book, page 139. In an indictment for murder or manslaughter, when the cause of death is knocking a person down with a stone or other substance, and the mortal wound is from the stone or substance, the charge should be accordingly. A charge that the prisoner struck a mortal blow will not be sufficient. Also, in Thompson's case, the indictment stated that the prisoner assaulted the deceased, and beat him on the head. The evidence was that the prisoner knocked the deceased down with a blow on the head, and the mortal wound proceeded from the ground. The learned Judge thought the case did not come within the indictment.

I will also refer to another case: to Martin, fifth of Carrington and Paine, page 128. In this case, the other two cases which I have cited were confirmed. Here a man was indicted for producing death by striking. The charge was that the prisoner wilfully struck him with a hammer.

The kind of instrument is not material. The truth was, there was doubt whether the death was produced by being struck against the

door, or by the hammer. The Judge ruled that there was nothing in the count about being struck against a door, and unless the Jury were satisfied that the death was produced by the blow, and not by the door, the indictment would not be sustained.

Unless the Government prove the means asserted, it don't prove the indictment. The law, as I understand it, is, that the particular means stated must be proved to the satisfaction of the Jury.

Now, then, Gentlemen, putting our attention to those first two counts, the Government alleges that death was produced by striking. What becomes of their evidence? The Government allege in the two first counts, and, therefore, the Government must prove, that the killing, here in this case, was by striking with some weapon or other. In the third count, the Government, if they rely upon it, assert that the striking was with hands, or fists, or beating against the floor. And that is precisely what the Government must sustain upon this count.

I come now to the fourth count. We shall submit here, if it be regular, in this part of the case, that this count, may it please your Honors, is totally insufficient, and ought not to be considered by a Jury; and that the Government had no right to introduce any proof, under this count. That is an insufficient count. And in the second place, if the Government have a right to introduce proof under it, still, that they have not introduced it at all. This count states, as I have said, that the death was produced in some way or manner, and by some means, to the Jurors unknown.

Now, we shall submit that there is no precedent whatever for any such count; and if there is no precedent for it, the precedents are all against it. There is no authority for it which we have been able to find anywhere; and the authorities are directly against it.

I will cite, may it please your Honors, in the first place, from Hale's Pleas of the Crown, page 185, first American edition. "An indictment of murder or manslaughter hath these certainties or requisites to be added to it, more than other indictments. For it must not be only *felonicé*, and ascertain the time of the act done, but must also declare how and with what it was done. Yet, if the party were killed with another weapon, it maintains the indictment; but if it were with another kind of death, as *poisoning* or *strangling*, it doth not maintain the indictment upon evidence." And the first volume of the second part of Coke's Institutes is referred to, page 319. The same doctrine is laid down in Hawkins' Pleas of the Crown, Book 2d, sect. 84, chap. 23. The doctrine is laid down in these words: "If the killing were with a weapon, the count must show with what weapon in particular; and yet, if upon the evidence it shall appear that the killing was not by such weapon, but by some other, the variance is immaterial, and the appellee ought to be convicted, as shall be shown more at large, under the *Chapter of Evidence*. And if the killing were not by a weapon, but by some other means, as by poisoning, drowning, suffocating, burning, or the like, the count must set forth the circumstances of the fact as specially as the nature of it will admit.

I will refer to East's Pleas of the Crown, chap. 5, sect. 107: "It is essentially necessary to set forth, particularly, the manner of the death, and the means by which it was effected; and an omission

in this respect is not aided by a general conclusion from the evidence that he was murdered," &c.

I will also refer to the third of Chitty's Criminal Law, 734th page of Judge Perkins' edition; also, to Russell on Crimes, first American edition, 677th page: "It is essentially necessary to set forth particularly the manner of the death, and the means by which it was effected;" and this statement must, according to the circumstances of the case, be one of considerable length and particularity. And, as examples of strictness, I will refer to the same case I have already cited, in Moody's Crown Cases, and the fifth of Carrington and Paine. I refer to them over again, on account of their bearing in this connection.

The count, may it please your Honors, now under consideration, is clearly distinguishable from the count made use of in the case of Colt, reported in the third of Willis' Reports, page 432. There is one of the counts which charged that the crime was committed, in the first place, by striking the deceased with a hatchet; and another count charged it to have been committed by striking and cutting him with a certain instrument to the Jurors unknown. This case comes nearer to disproving my position than any before the Court. But the means of death are stated; and the means are, to wit, striking with the instrument which is alleged to be unknown to the Jury; and the instrument is immaterial, if it be a striking instrument. He might have struck him with a ramrod, and it would make no difference.

The distinction between our case and that is, that the means of death are clearly stated, but the instrument is stated to be unknown. And we apprehend, may it please your Honors, that this mode, which the Government have adopted in the fourth count, of alleging an indictment, would give rise to great confusion. We apprehend that it might contravene many established rules. Why, under a count of this kind, may it please your Honors, there may be an indefinite number of issues tried. Killing in every possible way in which human life may be taken, may be tried under an issue of this kind.

We submit, then, so far as one of these counts is concerned, that it is imperfect and insufficient, for the reasons that I have stated to the Court. In regard to the three others, — the first two allege a death by striking; the third, a death produced by striking with hands and feet, and beating against the floor.

Now, then, Gentlemen, the question presented to you is this: Has the Government proved, beyond reasonable doubt, that Prof. Webster destroyed George Parkman by striking him with a weapon? That is the point. The Government must prove the killing by the means stated. That is the first proposition. And if the killing is proved by the Government to be in any other mode, then they fail upon their own proof. And if the Jury, upon the evidence, are left in doubt, whether the killing was produced by the means stated, or by some other means, then they are bound to acquit, under their oaths; because it is the right of the defendant — it is his right and privilege, and it is every man's right and privilege — to have the Government held strictly and distinctly to prove what they allege, in all its material particulars. Here they allege, in these two counts, a striking by a weapon. If they fail in this, there is an end of the case. If you are left in doubt, there is an end of this case. If you believe that he

killed him in this way, but you are left in doubt, then you are bound to acquit him.

This is no hardship upon the Government. The Government may allege as many counts as they choose. They may bring forward charges of death committed by burning, strangling, poisoning, or in any other way. They never need suffer from the privilege which they have to give in stating the means. But then the law holds them to prove some one of the means alleged; and if they fail in that, they fail in their case.

To recapitulate that point. To convict on these first two counts, you must be satisfied, beyond reasonable doubt, that the death was produced by the means of striking: under the third count, that it was produced by means of striking with the hands and fists, and beating against the floor. And we shall submit to you that, with regard to that point, there is not a tittle of proof. I do not suppose that the Government will contend that the death was produced in that way. And I apprehend that we might pass from that, and carry you more particularly to the first two counts, of death by striking, because on those the Government have produced some apparent proof.

I say that these counts are to be proved here, and proved beyond reasonable doubt. And this brings me to the third statement which I intended to make — what it is that the Government must do, to entitle themselves to a conviction, supposing the defendant introduces no proof whatever. What are the Government to do, under any circumstances, to produce a conviction? They are to prove that Professor Webster destroyed Dr. Parkman, according to the allegations read over to you, and that he destroyed him by means of striking with a deadly weapon; and if they fail, beyond reasonable doubt, there is an end to the Government's case. I say, *beyond reasonable doubt;* and, as I am upon that point, I should like to dwell upon it for a moment.

I am perfectly aware, Gentlemen, that there is an idea abroad, that this matter of reasonable doubt is something that the law accords to the prisoner as a gratuity; something that he is not entitled to; something by which guilty men sometimes escape punishment. But there never was a greater mistake in the world. This matter, that the Government are to prove a man guilty beyond all reasonable doubt, is no privilege to the individual, for which he does not have to give full compensation. It is not accorded to him as a gratuity. And the examination of our criminal system shows that I am right here.

Under different systems of laws, different criminal codes are adopted. I make no doubt but that ours is as perfect as any. Look at it, and see how imperfect it would be, if it were not for the checks put upon it. Every man must be proved to be guilty.

What is our system? We take a man from his family. We arrest him upon the charge of a heavy, heinous offence. We lock him up in a jail. And while his mind is paralyzed by his position, he is told to procure a defence — to proceed and prepare for his defence. What next? Why, *ex-parte* proceedings go on. The matter is tried and adjudicated before a Coroner's Jury, where he is not present. It is afterwards tried before a Grand Jury, where he is not represented. An indictment is found; and then, with all this accumulation of public opinion necessarily formed upon these proceedings, he is brought into Court, and put upon his trial.

How, then, is he placed? I am now taking the general position of a party; I am not referring to particular instances. How, then, is he placed, and what is his position? Why, he is placed at the bar; his mouth is shut. If he opens it at all, what he says is to go for nothing. And then witnesses are let loose upon him by the Government. And who are they? In many instances, they are malicious, swearing on account of some old grudge. In many cases, they are interested: sometimes for rewards and property; interested sometimes, in swearing of crimes, for themselves; sometimes interested for still worse motives. Now, in this situation, thus placed, and thus presented before a Jury, what chance would many and many an innocent man have of an acquittal? It would be very small indeed, were it not for checks and counterbalances which we have provided in our system for him; and one of them is this same matter of reasonable doubt. The law says you may take a man in this way; you may lock him up; you may try him over and over again; you may put him upon trial; you may close his mouth; you may produce your witnesses against him: but here you shall stop. And if, with all this, you cannot prove him guilty beyond reasonable doubt, he is to be acquitted. This is all the protection that an innocent man has.

You may, any one of you, be charged with an offence done when you are alone. You cannot prove that you did not do it. Persons will be mistaken about identity. But you can prove your previous character, and that there is a reasonable doubt. You are, we say to the Government, to prove your murder by your means, and beyond all reasonable doubt. And this is as much my privilege, as you have the privilege of trying me, and at your particular leisure. And, therefore, it is most certain and true, that this matter of reasonable doubt, so far from being a gratuity to a defendant, is his right. It is what the law has provided for him as his shield; and though it may be that guilty men may occasionally take shelter under that shield, what does the motto say, but "that a hundred guilty would better escape, than that an innocent man be punished"? The Government are to prove it beyond reasonable doubt. And if they fail, there is an end to their case.

It may be asked, What is a reasonable doubt? The answer is well stated in the first volume of Starkie, part third, sect. 79; "A Juror ought not to condemn, unless the evidence exclude from his mind all reasonable doubt as to the guilt of the accused. And as has well been said, unless he be so convinced as that he would venture to act upon that conviction in matters of the highest concern to his own interest." It is the first volume, 514 page, of Starkie.

It must be such a certainty, then, Gentlemen, that you would not hesitate to act upon it in matters of the highest concern to your own interest. It must be such a certainty, I contend, that you would act upon it, if your lives depended on it — "in the highest concern of your own interest."

If it be such a certainty that you would not venture your own life upon it, what right have you to venture his? You should be convinced, Gentlemen, and convinced beyond a reasonable doubt.

These remarks, Gentlemen, bring me to the fourth head to which I said I should ask your attention; which was, to the nature of the Government's evidence, and to the rules of law applicable to evidence of that

kind. Evidence, Gentlemen, so far as there is any occasion of dividing it, for the purpose of this opening, may be divided into direct and circumstantial proof. Direct evidence needs no explanation; and, in point of fact, there is none of it in this case. But merely for the purpose of convenience, I will say, that direct evidence consists of this: where the testimony is derived from persons who have actual knowledge of the facts in dispute — from persons who have actual knowledge of the matter they come to prove.

For instance, Gentlemen, if a person comes here and swears he saw a certain transaction take place, — there is direct evidence; and all the Jury would have to inquire into would be whether they believed the man or not. If they believed him, there is direct evidence of a particular fact, which he is brought to sustain.

But circumstantial evidence is, where a fact is attempted to be proved, not by anybody who saw it, not by any one who knows it, but by proving in advance certain other circumstances, and certain other facts, and then drawing a conclusion, from those facts and circumstances, that these particular facts which we are endeavoring to ascertain exist. This is called circumstantial evidence. Where the Government, — for instance, taking a case like this, — where the Government undertake to prove a certain fact, to wit, that a man was murdered. They bring nobody who saw it; but they go to work and prove a certain quantity of other facts, — they may be many, or they may be few: and having proved those other facts, they say we draw a conclusion, that the main fact was as we contend it was, — that is, that the murder was committed.

Now, Gentlemen, as you see at once, in this matter of evidence, there is no comparison between the strength of direct and circumstantial evidence. Circumstantial evidence is weak, compared with direct; and for the reason that the opportunities for human error are multiplied. All we can do, in the investigation of facts — all we ever can do — is to approximate towards certainty.

Nothing human is infallible. On the contrary, everything is fallible. All we can do is to approximate; and we approximate near or at a distance, in accordance with the means we have at our command.

Now, Gentlemen, if a murder is proved by direct evidence, what are the chances of error? A man comes here, and swears to a certain fact. What are the chances of a Jury being led into error? The chances depend upon his lying. If he swears falsely, then we are misled. But he comes, and swears to a solitary fact. But he is not likely to mislead us, because it is so simple.

Take a case of circumstantial evidence. The proof sometimes consists, as in this case, of numerous facts — of scores of facts. Every single fact is a distinct issue. Every single fact must be proved, beyond a reasonable doubt. Very well. Here the chances of error accumulate.

If they prove one fact, by one man, he may lie. If they prove another fact, by another man, he may lie; and so the chances of error multiply. And then, after all the circumstances are in, what do you do with them? Then you are to draw the correct conclusion from them. Human judgment is called in, to draw the accurate conclusion from these facts. And here there is a great source of error. Circumstantial proof is exposed to error from beginning to end; errors

in testimony from which the circumstances are intended to be established; errors in the inferences and conclusions which we draw from them after we have collected them.

Take the most simple case we can possibly put. Suppose a man is seen killed upon the side-walk. Suppose a watchman comes, and swears that he saw a man running away. A second swears, that, the house being pointed out to him, he went in, and arrested a man who appeared to be out of breath. A third comes, to say that he afterwards found blood on some clothes belonging to the prisoner. Take the first witness. He may be mistaken about the man, and about the house, and he may lie; — three chances of error. The second may be mistaken about the man whom he arrested, or the house which he thought was pointed out, or he may lie; — three more chances of error. And the third may be able to detect blood or not, and he may be mistaken about his statement whether the clothes were those of the prisoner, or he may lie, too. Here are all these accumulated chances of error. And then, when they are all proved, correct conclusions are to be drawn from them. It may be that he did commit murder. It may be that he was an innocent man, who was running along that way; it may be that he ran away from terror, at seeing such a blow struck; it may be he was a friend of the deceased.

I put this as a simple case; and yet you see how great the chances of error are. But when you come to such a case as this, there is no telling to what a height those chances reach.

It is, Gentlemen, necessary also to remember, as I apprehend — certainly it is not the least important part of this evidence — that we are always drawing incorrect conclusions; and hence the number of innocent persons who have suffered from circumstantial proofs have lost their lives, so far as we can judge, from cases made up from incorrect inferences; not so much from paucity on the part of witnesses, as from the incorrect inferences drawn by the jurors.

Take that most common of all cases, cited continually: where an uncle and a niece lived together; and the niece, one evening, was heard crying out, begging him not to kill her. On the next morning, she had disappeared. He, being charged with the deed, and being put to his wit's end, found another girl to simulate his niece. The deception was found out, and the man was convicted and hanged. But it afterwards appeared that the niece came back, having only run away. Here were these circumstances laid before conscientious jurors; circumstances proved by conscientious witnesses. But they erred.

He who is arrested with stolen goods in his possession has to answer for it. It implies a theft. There is an old and well-established case, in illustration of this, where a man, who had stolen a horse, got a countryman to hold him, knowing he was pursued. Presently, the constable came up, and arrested the countryman. Here was a plain case. He was found with the stolen property in his possession, immediately after the theft had taken place; and he was hanged for it. There is another instance.

I am induced to dwell upon this for a moment, because I am perfectly aware that there are certain opinions, that circumstantial evidence is necessarily correct, and that circumstances cannot lie, and various other sayings, that are totally false; sayings which probably applied to the circumstances in connection with which they were first

mentioned, but, by being stupidly repeated over and over again, have received the dignity of proverbs. The truth is, that circumstances do not; but the witnesses who undertake to prove them may lie, and the conclusions drawn from them by human judgments may lie; and it is all idle to suppose that there is any particular virtue in circumstantial evidence. But, on the contrary, it should be remembered, that it is always weak and uncertain.

I will read, merely as a part of my argument, from Mr. Best's work on Presumptions of the Law, page 253. Speaking on this very point, and in regard to this prevalent idea, that circumstantial evidence is strong, he says, "Juries haue been told from the Bench, even in capital cases, that, 'where a violent presumption *necessarily* arises from circumstances, they are more convincing and satisfactory than any other kind of evidence, because *facts cannot lie.*' Numerous remarks might be made on this strange proposition. The first that presents itself is, that the moment we talk of anything as a consequence *necessarily* following from others, all idea of *presumptive* reasons is at an end. Secondly, even assuming the truth of the assertion, that facts or circumstances cannot lie, still, so long as witnesses and documents, by which the existence of these facts is to be established, can, so long will it be impossible to arrive at infallible conclusions. But, without dwelling on these considerations, look at the broad proposition — *facts cannot lie.* Can they not, indeed? When, in order to effect the ruin of a poor servant, his box is opened with a false key, and a quantity of goods, stolen from his master, deposited in it; or, when a man is found dead, with a bloody weapon lying beside him, which is proved to belong to a person with whom he had a quarrel a short time before, and footmarks of that person are traced near the corpse, — but the murder has, in reality, been committed by a third person, who, owing a spite to both, put on the shoes and borrowed the weapon of one to kill the other; — did not the circumstances lie — wickedly, cruelly lie? There is reason to fear blind reliance upon the *dictum*, 'that circumstances cannot lie,' has occasionally exercised a mischievous effect in the administration of justice."

Another great cause, Gentlemen, why circumstantial evidence is not to be relied on, to a great extent, is, what is called a moral cause; that there is a well-known tendency of the mind, when great crimes are suspected, which leads witnesses particularly, and even jurors, to exaggerate facts, and to place great reliance upon their own shrewdness. This, Gentlemen, is also alluded to in the same book from which I have quoted. I will read it, as a part of my argument. Speaking on this very subject, Mr. Best says, "There is an anxiety naturally felt for the detection of crimes, particularly such as are either very heinous, or peculiar in their circumstances, which often leads witnesses to mistake or exaggerate facts, and tribunals to draw rash inferences; and there is also natural to the human mind a tendency to suppose greater order and conformity in things than really exist, and a sort of pride, or vanity, in drawing conclusions from an isolated number of facts, which is apt to deceive the judgment. Accordingly, the true meaning of the expressions so frequently to be found in our books, that all presumptive evidence of felony should be warily pressed, and admitted cautiously."

So far with regard to the Government's evidence. In this case it

consists entirely, solely, of circumstantial proof. And in many cases the circumstances relied upon are actually proved by other circumstances.

It is undertaken to prove circumstances by circumstantial evidence itself. And who shall say to what extent the sources of error have thus multiplied? Owing to this known tendency of circumstantial evidence to mislead the mind, owing to the danger which is likely to arise, the law has adopted certain rules, which are to govern and to guide Juries in considering it. Some of those rules I shall call your attention to, because I consider them pertinent. There may be others mentioned hereafter.

The first rule which the law has adopted, for the purpose of guarding, as far as possible, against error — (as for guarding against it entirely, it cannot be done; there is no human tribunal where it can be guarded against; but to guard against error to some extent, certain rules of law have been adopted) — the first rule I shall name is this. It is an established rule of law, that every circumstance which is relied on must in itself be proved beyond all reasonable doubt. I refer for that to the first of Starkie, 442 page. The first rule is, that every single circumstance from which the conclusion is to be drawn must be proved in itself beyond all reasonable doubt. That, of course, shows you that every circumstance is a separate issue, in itself. Every circumstance is to be proved beyond reasonable doubt; and that, you understand, means this: you must find that it is proved beyond all reasonable doubt, when all the evidence is in; not that any one witness proves a point particularly; but, when you come to consider all the evidence in the case, introduced by each side, upon each point, you are to be satisfied of each individual circumstance, beyond all reasonable doubt.

Therefore it follows necessarily, that if in a long train of circumstances, upon which the case is hung up by the Government, there is any one single circumstance which fails, there is an end to the whole case at once. They undertake to anchor their case by a chain of circumstances. If one link breaks, by its own intrinsic weakness, or by any force which the opposite party brings against it, there is an end to the case.

Secondly, Gentlemen, the circumstances which are proved, when you find they are proved beyond reasonable doubt — those circumstances must establish, to a moral certainty, the particular hypothesis attempted to be proved by them. That is to say, if the Government undertake to prove a certain fact, by circumstances, and you are to consider it proved by an inference drawn from those circumstances, the circumstances must prove that the inference is correct. That is to say, not only the circumstances must be proved beyond reasonable doubt, but also you must be satisfied that the inference is proved beyond all reasonable doubt. And that is the second circumstance. For that rule I will refer to Willis on Circumstantial Evidence, 187 page.

Thirdly, Gentlemen, the circumstances — and I pray your attention to this rule — these circumstances which are proved beyond reasonable doubt, must not only support the particular hypothesis which the Government intend they shall support, but they must not support any other hypothesis. That is to say, they must not only sustain the

inference which the Government draws from them, but they must exclude every other possible inference. Because, if a set of circumstances could establish two distinct hypotheses, and one is contrary to what the Government assert, and the other in accordance with it, — that is to say, if one is in favor of the defendant's guilt, and the other of his innocence, — there is an end of their case. The Jury are bound to take his innocence for granted. And it is from this rule being disregarded, being overlooked, that a vast quantity of misery has been inflicted upon innocent people.

I will refer to Best upon Presumptions of the Law, page 282. "The evidence against the accused —"

Mr. Clifford. I do not understand that that work is authority in these Courts. I have not been much in this Court; but I suppose that that is the work of a very extravagant man, and I do not know that it has been passed upon by the Court.

Mr. Sohier. It is a work that has been cited here very often; and I am not sure that it was not cited in Peter York's case. I think it was.

Best refers to the first of Starkie's Evidence, page 577, third edition, and to Willis on Circumstantial Evidence, page 187, as authorities. The rule is stated, as taken from several works, that the evidence must be such as to exclude, to a moral certainty, every hypothesis but that of the guilt of the defendant. And if any other hypothesis can be sustained, it is for the Jury to assume that hypothesis to be the true one. And Mr. Best says that this must be "understood by reference to instances where inattention to contrary hypotheses has led into error. In the first place, then, the safety of individuals has occasionally been jeopardized by the fabrication of circumstances; which may be either casual, or intentional. Under the former are ranked those cases where the accused, although innocent, is shown to have had peculiar temptations, or facilities, for committing the act with which he is charged: as where, in cases of murder, he has lived with the deceased, or had an interest in his death; or where a man becomes covered with blood, by coming in contact in the dark with a bleeding body; or death is produced by a weapon which is proved to be the property of a person, who, nevertheless, is not the real criminal." These are cases which I shall read, if they are proper authority.

Chief Justice Shaw. Taken with a qualification, that it must be consistent with every other reasonable hypothesis.

Mr. Sohier. I will refer to Starkie, page 577. The particular case which I was going to state to the Jury — and there are several cases stated — was this. "A servant-girl was indicted for the murder of her mistress. The chief evidence against her was, that no one person lived in the house but the prisoner and the deceased, and all the doors and windows were secure as usual. After the prisoner was condemned and executed, it appeared, by the confession of one of the real criminals, that they had gained admittance into the house, which was situated in a very narrow street, by means of a board thrust across the street, from an upper window of an opposite house, to an upper window of that in which the deceased lived; and having committed the murder, returned the same way, leaving no trace behind them." And there are numerous other cases.

I put this by way of illustration, as a case in which the circumstances were proved. The error was in the inferences. And cases are continually occurring, in almost every man's life, when these circumstances might take place. And hence these rules are considered most essential for every citizen; and they can never be lost sight of without endangering the party, and every other person who may be placed in the same situation.

I wish to draw your attention, for a single moment, to these rules. There is only one of them to which I will ask your attention. Take the Government's evidence. I will merely state it generally. What is the Government evidence? Why, it consists of one great chain of circumstantial proof, with which they have endeavored to surround the defendant, and by the weight of which they have endeavored to crush him. This chain consists, of course, of two great divisions, two great parts. First, what is called the *corpus delicti;* that is, that George Parkman came to his death by violence from somebody. That is the first link. Secondly, that Professor Webster was the party who produced that, and that he produced it in the manner alleged. These are the two great divisions, and each of these divisions, of course, goes into various subdivisions, and the subdivisions into various links.

But without stopping to consider that, let us see how the Government support their case. Take the first great division of their chain. They say that Dr. George Parkman was murdered. That is the very first point with which they start, that he came to his death by violence. How do they undertake to prove that? By various circumstances, all leading to one end; that Dr. Parkman being in the Medical College, where it is admitted he was, never came out. And that is the circumstance upon which they begin to build their chain.

Now you notice at once the various circumstances on which they rely — the handbills, search, and everything else. That is the first part of the division of their proof, that, being there, he never came out. Take the second. They have a link of precisely the same kind, or a duplicate of the other. They say that Professor Webster destroyed him by violence. Why? Because he was the last person with whom he was seen; and if he did not destroy him by violence, the Government do not know who did.

Now suppose that he left the College. If that one link be broken, their whole chain runs away.

Take another department of their case. They say they prove the identity of the body; and that constitutes one department of their proof. How do they prove it? Principally by the teeth found in the furnace, by marks upon the teeth! Suppose it should turn out that there is no very great peculiarity; there is an end of their identity. If it was built upon other circumstances, it might stand upon them. I have put these points solely by way of illustration.

The great points to be borne in mind are, first, that every circumstance relied upon must be proved beyond reasonable doubt; secondly, that the circumstances must establish to a moral certainty the guilt of Professor Webster. To do that, the third rule must come in — that these circumstances must not support any other hypotheses. If they do, there is an end of the case.

What must be the line of defence taken up by any man, who is

indicted and tried upon circumstantial evidence? It must consist in denying this; it must consist simply in this, — to wit, that the circumstances relied on by the Government are not, and cannot be considered to be, when all the evidence is in, established beyond all reasonable doubt. And that is the point which we take — that these circumstances are not and cannot be established, when our evidence is in, beyond all reasonable doubt.

Secondly, that these circumstances do not sustain the hypothesis attempted to be founded upon them, to the exclusion of all others; but, upon the contrary, conclusions can be drawn from these circumstances better in favor of the innocence than in favor of the guilt of Dr. Webster. So much with regard to the rules of law as applicable to the crime charged, as applicable to the manner in which it is charged, as applicable to the nature of the evidence which has been adduced here.

I come, then, to state, very briefly, and very generally, merely the heads under which we intend to introduce some evidence. We do not intend, Gentlemen, in this stage of the proceedings, — for it is not necessary, and it would, in my opinion, be totally irregular, — to go into any examination of the circumstances which the Government have been attempting to prove, or to show which of these circumstances we deny, and which we admit. That is to be explained in another stage of the case. My duty is to show to you the heads under which we intend to introduce our proof.

We say we do not intend to produce any direct evidence for the purpose of explaining by what means those human remains came into that laboratory, or beneath it. Professor Webster remains on the position which he originally took. He knows nothing about it. Those are the remains of a human body. We can no more explain these than the Government can. We can explain it only by hypotheses, as the Government has explained it. The defendant stands as you would stand, if similar remains were found upon your premises, under the foundation of your house, in your work-shop, anywhere. So he stands, and so he must stand. And we know of no direct proof by which anything of the kind can be explained.

Again, in regard to the interview which took place between Dr. Webster and Dr. Parkman, it is impossible for us to introduce direct proof. In the nature of things, no direct proof can be introduced. For, as you see, the circumstances exclude all direct proof. The statement of the case, as put to you, is that the parties met alone, and that the interview was an interview by themselves. Of course, there can be no proof brought about that interview. The evidence in regard to this, seeing that we have no direct proof, — seeing that, from the nature of things, we can have no direct proof, — must be circumstantial. And such circumstances as we can introduce, in connection with such of the Government's circumstances as you give credit to, must constitute the bulk of the testimony in this case, upon which you must render your verdict.

The evidence, under the heads in which we shall introduce it, is simply this. Professor Webster stands charged here with having committed a cruel and an inhuman act. That is the charge against him. In regard to his being the person to commit an act of that kind, we shall introduce his character and reputation. The law, Gentlemen, I am free to say to you, does not give the same weight to

character, where direct evidence is brought to bear upon a party, which it does in all doubtful cases, or where the Government depends upon circumstantial evidence, which make up, of course, doubtful cases, and which must be doubtful cases.

Where a man stands charged, on circumstantial evidence, and in a doubtful case, with the commission of a great crime, the very greatest weight is to be given to character. And his character is always admissible, with this view. If a man should be proved, by direct evidence, to have committed murder, it would be of little importance to prove that he had previously been of good character. The only issues that could be made of his character, in such a case, would be to show that the witnesses who swore to the fact could not be true. The argument would be, that the witnesses did not swear to what he did do.

But when you come to a doubtful case — a case of circumstantial evidence — then there is weight to be placed on character; and a man has a right to be judged of, by his fellow-citizens, by a character which he has earnt and established by a long life. Now, in introducing character, a man shall be at liberty to introduce it simply and solely so far as his traits of character have a direct bearing upon the offence charged. For instance, suppose a man should be indicted for felony and larceny. It would be perfectly ridiculous to show that his character for humanity was good. His character for honesty would be in issue. Suppose a man was indicted for perjury. His character for truth and veracity would be at stake.

Professor Webster is charged with doing a violent, inhuman and cruel act. And I shall introduce evidence, with regard to his character, by which you will judge whether he would do this act. And I shall be very much mistaken, if we do not establish strongly upon that ground. Again, we shall undertake to show, so far as proof is accessible to us, (for you will bear in mind that the arrest of Professor Webster took place after a week, in which many of his acts were committed,) what his conduct was, and how he spent his time, during that period.

We shall also introduce proof, Gentlemen, in regard to the question, whether Dr. Parkman was ever out of that College, after that fatal Friday noon. For we are mistaken if there is not proof to show that he did come out of it. That may not have bearing as to whether that is his body or not; but it will have an important bearing as to whether he was destroyed by Professor Webster, as is alleged by the Government. The facts are simply these, in regard to the evidence we introduce: —

In regard to the character, and to the various heads to which I have alluded, Professor Webster is a person who has all his life been devoted to the pursuit of chemistry. He is a person of nervous disposition; but a man exceedingly peaceable and harmless in his habits and his conduct. We make no question, in regard to his nervousness. He may sometimes show petulance. But so far from being a violent man, familiar with deeds of blood, nothing can be further from this. He is naturally a timid man.

He has, Gentlemen, as I have stated to you, always been devoted to this pursuit; and he has devoted his days and his nights to it. Whatever advancement he may have made in this pursuit of chem-

istry — whatever accumulated wisdom he may have — we do not claim for him.

In reference to dealing with the world, he is not a shrewd man. On the contrary, he may be considered the reverse; that is his character, so far as we know it. But it is not a new thing for him to be locked up in his laboratory, days and nights. It is no new thing for him to exclude the janitor, or anybody else, when he is conducting his experiments. It is a safe and necessary practice, in all laboratories. True it is, that, at the time when these pipes were new, certain persons had access to them, for the purpose of keeping them clear; but, for certain very good reasons, he stopped that use of it, and let the water run off.

All this is, and this alone, the head and front of his offending. The interview took place precisely as Dr. Webster has stated, and Dr. Parkman left the College; and Dr. Webster left the College at quite an early hour for him, on that Friday afternoon.

We shall show you how Professor Webster passed the rest of the week; that he was at home almost every day, at dinner; almost every night, at tea. These are all the peculiar circumstances under which we are prepared to produce evidence, excepting that we may introduce evidence directly contrary to what the Government have put in, upon certain points. This is the statement, and all the statement, that we intend to make to you, upon the opening of the case.

Hon. Joseph T. Buckingham, (Senator from Middlesex,) *sworn.* — I reside in Cambridge, and have known Prof. Webster for thirty years. It is seventeen years since I commenced living in Cambridge. I never heard that he was guilty of any act of violence or inhumanity. In regard to his general reputation, in that respect, I have never heard him charged with any act of violence. We have been on familiar terms, and have met very often.

Hon. John G. Palfrey, *sworn.* — I have known Professor Webster. In regard to his character for violence, I have never heard it discussed; but have never known, myself, of any act of violence committed by him. I have known Dr. Webster to be considered a petulant man, but one who would exhaust his sudden fits of petulance in words; but, in general, he is a peaceable man.

John H. Blake, *sworn.* — I reside in Boston, and am acquainted with Professor Webster. At one time, I was very intimate with him. This was twenty-five years ago.

I was with him, the first year of my acquaintance, in the laboratory. Never heard of any acts of violence being committed by him.

Dr. James Walker, *sworn.* — I reside in Cambridge, and have been acquainted with Prof. Webster fifteen years; ten years of which was since I resided here. I never heard anything against his peaceable character. I never heard of any acts of violence.

Francis Bowen, *sworn.* — I reside in Cambridge. Have been acquainted with Prof. Webster about thirteen years. He has moved in the same society with myself. He is quickly excited, but very quickly forgetting the cause of his excitement. A hasty and irritable man, but lacking depth of passion. Never knew of any act of violence being laid to him.

JOSEPH LOVERING, *sworn*. — I reside in Cambridge. I have been acquainted with Prof. Webster; have known him twenty years. He has been considered a peaceable, humane man, and I never heard anything to the contrary.

GEORGE P. SANGUR, *sworn*. — I reside in Charlestown; and am acquainted with Prof. Webster. Have known him personally ten years; and by sight, fifteen years. I never heard of any acts of inhumanity or violence charged against him.

REV. DR. CONVERS FRANCIS, *sworn*. — I reside in Cambridge; and am acquainted with Prof. Webster. I went to reside in Cambridge in 1842. For about twenty years, I have been acquainted with him, as a neighbor. So far as I know, he has been considered a peaceable, honest and humane man, and honorable and satisfactory in his conduct to his neighbors.

ABEL WILLARD, *sworn*. — I reside in Cambridge. I am acquainted with Prof. Webster. I have known him about twenty years. His reputation for peace and humanity has been good.

JOHN CHAMBERLAIN, *sworn*. — I reside in Cambridge, and am a carpenter. I am acquainted with Prof. Webster. Have known him twenty years, before he moved out to Cambridge. His character stood very high, as a citizen, and a good neighbor. Never knew of his being guilty of any act of violence and inhumanity.

HON. JOEL GILES, *sworn*. — I reside in Boston in winter, and at Cambridge in summer. I am an attorney at law. Have known Prof. Webster since 1829; been personally acquainted, since 1845, with him. As far as my information extends, he has been considered a peaceable and humane man. Have never known any acts of violence and inhumanity to be committed by him.

EDMUND T. HASTINGS, *sworn*. — I reside in Medford. I was formerly a merchant. I have been acquainted with Prof. Webster. I was first acquainted with him in 1825. I have sold him land, two or three different times; the first lot was in 1834. I lived in Cambridge till 1834. I never heard anything contrary to his being a quiet, humane and peaceable man. I am much in Cambridge, on business, so that I have had an opportunity to hear concerning him. I have never heard anything against him till his arrest.

JOHN A. FULTON, *sworn*. — I reside in Cambridge, and am a painter. I am acquainted with Prof. Webster, and have been for the last twelve or fourteen years. I never heard anything against his being a quiet, peaceable and amiable gentleman. I never heard any acts of violence or inhumanity imputed to him.

Cross-examination. I do not remember anything to the contrary. I recollect that Dr. Webster took a very active part in decorating a hall in Cambridge, at the late inauguration; and that he had orders to stop in the decorations, and not go on any further. He did not show, as I thought, any anger. I did not see or hear that he was violent, in pulling the decorations down.

JAMES D. GREEN, *sworn*. — I reside in Cambridge. I have been Mayor there. I am acquainted with Prof. Webster; and have known him somewhat, for fifteen or twenty years; more particularly, for the last six or seven years. He has generally, in the community, so far as I have been able to judge, been regarded as a peaceable and humane man.

C. M. Hovey, *sworn.* — I reside in Cambridge. I keep a seed store, in Boston. Have known Prof. Webster for about twenty years; perhaps twenty-five. His reputation as a peaceable man has been considered very high.

Daniel Treadwell, *sworn.* — I reside in Cambridge. Have been connected with the College; but am not now. I am acquainted with Prof. Webster, and have been for nearly thirty years. I think he has been considered as a quiet, peaceable, and humane man; but somewhat petulant, and nervous. But he is generally considered a perfectly harmless man.

NINTH DAY. — *Thursday, March 28th.*

[The Jury came into the Court-room a little before nine o'clock; and in a few minutes after, the Court came in. After the usual calling of the Jury, the evidence on the part of the defence was resumed.]

Nathaniel I. Bowditch, *sworn.* — I reside in Boston. Have been acquainted with Prof. Webster for about thirty years. His general character is that of a humane and peaceable man; but he is possessed of a somewhat quick and irritable temper.

J. D. Hedge, *sworn.* — I reside in Cambridge, and have known Dr. Webster for about twenty-five years. He is generally considered as a peaceable and quiet, but nervous and sometimes passionate man; but not ever violent.

James Cavanagh, *sworn.* — I have resided in Cambridge for sixteen years, and have known Prof. Webster all that time. I lived three years with Professor Webster. His general reputation is that of a peaceable and agreeable man; but he is sometimes hasty in his temper. I always found him a kind-hearted and pleasant man, when I lived in his family.

Major Abraham Edwards, *sworn.* — I reside in Cambridge; am City Marshal. Have been acquainted with Professor Webster for fifteen years; I lived in the same ward with him. He has been, as far as I know, a peaceable and humane man.

Peleg W. Chandler, Esq., *sworn.* — I have known Dr. Webster personally for about twelve years. He is generally considered as a mild man, deficient in energy of character and strength of passion. His general character for kindness and humanity is decidedly favorable.

Dr. Morrill Wyman, *sworn.* — I reside in Cambridge, and have for the last twelve years. I am not a near neighbor, but live not far from Dr. Webster. My acquaintance with him commenced fifteen years ago, and has continued up to the present time. His general reputation has been, as far as I know, that of a kind, amiable, and agreeable man.

Dr. Jared Sparks, (President of Harvard University,) *sworn.* — I reside in Cambridge, and have for seventeen years; during which time, I have known the defendant. From my own observation, he has appeared kind and amiable. I never knew of anything against him. I did not hear anything until his arrest. As far as I know, I should say that he has been generally considered an amiable and kind-hearted man.

Cross-examination. I have heard many remarks about him since

his arrest, but nothing to which I gave credit. His conduct, as far as I knew, before, was that of a kind and peaceable man.

CHARLES O. EATON, *sworn*. — I reside in this city. I have been somewhat acquainted with Dr. Webster about three years; more or less intimate. I have always found him a quiet and peaceable man. I should think he was a kind man. I am a sign and ornamental painter; have done more or less work for him, for two or three years, at the Medical College; during his lectures, more work than at any other time. I have had occasion to go to the Medical College frequently. I always found him in his private room, or lecture-room. He told me, if I wished to see him at any time, to come to his private entrance by the dissecting-room. I have frequently been there when I found his doors bolted inside. At other times, and I have found them unbolted. Generally find them unbolted about his lecture-hours. I have gone away a great many times, when Mr. Littlefield told me that he was in, though I found his door locked. The last time I was there was November 12th. He requested me to meet him at the College. I inquired for Dr. Webster, and the janitor told me that I could not see him, as he was busy. I told him that Dr. Webster had requested me to come there at that time. He tried the lecture-room door, and it was bolted; then the lower laboratory door, and that was bolted; and then we went round to another door, and gained admittance.

Cross-examination. I have not been at Professor Webster's lecture-room at any other time this fall. I was there in the summer of 1849. I painted his diagrams, and only went there when he was there. I have not, perhaps, been there in the summer, but in the latter part of the spring. I am sure that it was while he was lecturing at the Medical College. I had orders nearly every week, during his lectures. He had many diagrams that he wished done during the vacation, for the next course of lectures. He wanted me to wait till the lectures were finished for my pay. I was there four or five times a week during the lectures. Sometimes I would not go more than once a fortnight. I believe I have prepared diagrams for three courses of lectures, including the fore part of 1849. The course of 1850 is now going on. I painted some diagrams for the present course. When I prepared diagrams for Professor Webster, I was an apprentice to Thomas C. Savory. I set up for myself October 1848. While I was an apprentice, I think I went oftener than I did after I set up in business for myself.

I sometimes went three or four times a week, and sometimes every day in the week. I went on his lecture-days. I think the days when he had no lectures were Thursday and Saturday. I won't say certain. The days were in the janitor's box.

The lectures did not last the whole year round. I do not know when they commenced, or what month they left off. Perhaps they commenced November, and ended in April or May. I could not say how late, but I have been there when it was warm weather; whether in April or in March, I could n't say. I could n't say that I was there in May. I could n't say whether I had been there in the month of April, for certain. I mean to say, that I was there when it was quite warm weather; it may have been in a January thaw. I think the

lectures close in the months of April or May. I have given my testimony from recollection. When I go, I have to wait outside.

I had not been there for a long time previous to November 12. I think I was there in the summer of 1849, but cannot say what time. I think I went for my money. I think he had from me one bill in January, another in June, and another in July. He ordered his diagrams in February, for the fall of 1849. He gave me orders for the present course. I was to have them finished by the first of December. I have prepared some diagrams for these lectures, which Dr. Webster ordered.

Direct resumed. I am not a student, and my knowledge of the time of the lectures is derived entirely from my painting diagrams for him. I think the lectures began in November, and ended in the spring. I never knew that Professor Webster lectured in Cambridge. I did not go to explain the diagrams. I had the privilege of seeing him when I went precisely at one; but did not go always at that hour.

Robert C. Apthorp, *sworn.* — I reside in Boston. Am acquainted with Dr. Webster. I have known him, more or less, for about six years. I resided in Cambridge from 1842 to 1845. Have been intimate; and from my knowledge, I can say I never knew anything against him. I am acquainted in the neighborhood where he lives, and was intimate with his family.

Samuel S. Greene, *sworn.* — I reside in Cambridge. I have resided there forty years. I was the person who gave information to the Marshal that the toll-keeper said that Dr. Parkman had passed the toll-house. Sunday evening, I was at the toll-house, where I understood Mr. Littlefield to say that he had seen Dr. Webster pay Dr. Parkman $470, and that another person was present. I afterwards understood him to say that he did not see the money paid. I was sitting back, about four feet off from him; and I remarked the discrepancy at the time. I understood him to say Dr. Parkman went out of the College. This conversation between Dr. Webster and Dr. Parkman, he said, was Friday. It was on Sunday the conversation took place at the toll-house.

Cross-examination. Mr. Whitney was present, who, I think, differs a little from me in opinion. The toll-man was there, but not Mr. Hadley. A gentleman came in, and I thought he was a police officer. I can't give Mr. Littlefield's language. The amount I now fix at $480, and no cents. I made a mistake when I said $470. He stated that he had charge of the building. He didn't say where he was when he saw Dr. Parkman; it was in the building, though, I think. He said he saw Dr. Parkman in the building, but did not see him in the lecture-room. I didn't hear him say that he saw him come in. I stated all that I knew, in the first place. I understood him to say that he saw Dr. Webster pay it, and afterwards I understood him to say he didn't see him pay it. I didn't understand that Dr. Webster told Littlefield this.

Judge Samuel P. P. Fay, *sworn.* — I have resided in Cambridge forty years. Dr. Webster has been there as Professor many years. I have been his near neighbor for the last fifteen years. Have always heard him spoken of as a kind, humane man, and not violent, though somewhat irritable. He has been considered benevolent. The Friday evening that Dr. Parkman was missing, I saw Professor Webster. I

called in casually at Professor Treadwell's; and there I found Dr. Webster and his wife, and Dr. Wyman and his wife. I was there about an hour; I came in about nine o'clock. I have no particular recollection of him. He appeared as usual. He entered into conversation with those there. There was no meeting there by appointment. There was nothing but conversation on general subjects — the topics of the day and discoveries in ventilation. I saw him four or five times during the week. I called there either Sunday or Monday, or it might have been Tuesday, of the ensuing week; I called there two evenings, and spoke about the disappearance of Dr. Parkman, as Dr. Webster was in town every day, and had perhaps heard the news, as I thought. I was there Monday, I think, or Tuesday, and was invited to play a game of whist. I sat down, and played three or four games; the Doctor and his daughter against Mrs. Webster and myself. I was there two evenings out of Sunday, Monday, and Tuesday. I made the inquiries in regard to Dr. Parkman of Dr. Webster.

Joseph Kidder, *sworn.* — I am a druggist, in Boston. I am acquainted with Dr. Webster. I remember the day of Dr. Parkman's disappearance. Professor Webster came into my store about five o'clock, — previous to lighting up the gas, — about fifteen minutes after sunset; I think it was fifteen minutes before five. He was there only a few minutes. I am positive of the day, for I have a bill of articles which he purchased.

Cross-examination. He bought a box of cologne, which contained six bottles; did not pay for it.

Direct resumed. He took it with him.

Marianne Webster, *sworn.* — I am a daughter of Dr. Webster. Since his arrest, I have endeavored to call to mind the places where he was that week. Father was home to tea Friday night, the 23d, a little before six. He took tea at home, and remained at home till eight, and then went to a neighbor's house, with mother, and sisters, and myself. Father left us at the gate. Mother left with him. We were at a small party. I next saw him about half past twelve; when I came home from the party, he opened the door for me. He retired to his room about one o'clock. It was half past twelve when I returned home; and we all went up stairs at the same time. It was his custom to breakfast at home; but I did not breakfast myself that morning, so I did not see him again till a little after one o'clock. He dined at home. I did not see him again till dark. I was not at home myself that afternoon. I don't remember the *Transcript* being there. One of the neighbors takes it, which father sometimes reads. He was at home that evening, and read to us, and played whist part of the time. That was not the evening Judge Fay was there. I remember he was at home to tea. Before tea, he came into the parlor with a book.

I went to bed at ten. Father was at home then. I can't call to mind seeing father, until I saw him at church. After chapel, he went to take a walk with my mother and sister. He was at dinner at half past one. We dined earlier than usual, for he was going to town that afternoon. I knew, that morning, that he intended to come into town. I heard at noon that he wished to go in the morning. He was going in to call on Dr. Francis Parkman, to tell him that he was the

individual who had the interview with his brother, the Friday previous. I don't reccollect when I next saw him. I cannot call to mind seeing him that evening. On Monday, he was home to dinner at two. He came home just at dinner-time. I next saw him at tea. We are always an hour at dinner. I cannot recollect he was at home that afternoon. He was at home that evening, and spent the evening at home. I fix it by Judge Fay's being there, and playing whist. I went to bed at a little past ten. Father was there then.

On Tuesday, father was at home to dinner. He was at home a short time after dinner. I don't remember whether I was at home that afternoon, or not. He was at home in the evening till between ten and eleven. I don't recollect whether he then went to bed, or not. I left him sitting up. There was a fire, that evening, in the direction of Porter's; and we played whist, is the way I fix the time. We played amongst ourselves. He generally breakfasts with the family. On Wednesday, father was at home to dinner. I remember seeing him Wednesday about eleven. I was in the dining-room, reading, and he came in and spoke to me about it. He then went and worked in the garden till near dinner-time. He dined at home, and was there till twenty minutes after six. He then came, with sisters and myself, to Boston, to Mrs. Cunningham's, to a party. We came home at eleven, with him. We left him up when we went to bed. He was sitting in a dressing-room, reading a newspaper. He was at home all day, Thursday. Part of the morning he was in the garden, and at home in the evening till I went to bed, which was at ten. I left him up. On Friday, I first saw him at dinner. He was at home for about half an hour after dinner, and again at sunset. He was at home part of the evening. I have a married sister, abroad in Fayal. We have constant intercourse with each other. We keep a journal, from which we write to Fayal. I have refreshed my memory with it, concerning these facts. He is in the habit of sending plants to Fayal, in air-tight boxes. I knew he intended to send some plants this winter to Fayal.

I don't know whether the plants were in preparation or not. He has had flowers from Fayal. I don't know whether he was making preparations, at this time, to have flowers got for him.

Harriet T. Webster, *sworn*. — I am a daughter of Prof. Webster. On Friday evening, the 23d Nov., I saw father, before tea, between half past five and six. He was at home till eight o'clock. He went, with sisters and myself, to the party. He then left us, and went with mother to Mr. Treadwell's. I saw him, on my return from the party, at half past twelve; he opened the door. I saw him for about half an hour. He went up with us, when we retired. The next day, I did n't see him till one o'clock. He spent the afternoon at home till about dark, when he went out about half an hour, and went to a book-store. He brought back a new book, — an illustrated edition of Milton's Allegro and Penseroso. He spent the evening at home. Miss Hodges was there part of the evening. He read aloud to us part of the time, and also played whist. We were up till about ten. We left him up. I saw him at breakfast, Sunday. He went to church, and was at home at dinner-time; and after dinner, came into town, to tell Dr. Francis Parkman that he had had an interview with Dr. Parkman on Friday. I heard of his intention in the morning.

I next recollect seeing him before I went to bed, but cannot state the hour; — it was after ten. I think I left him up that evening. I next saw him on Monday at dinner-time. I don't recollect seeing him in the afternoon. He spent the evening at home. Miss Wells and Judge Fay were there. We played whist that evening. I retired early; am not sure whether Judge Fay had gone, or not.

On Tuesday, I recollect first seeing him at dinner. I saw him again at tea. He was at home that evening. He read aloud to us part of the time, and played whist part of the time.

On Wednesday, I saw him at breakfast, and again at eleven. He spent part of the time, till dinner, in the garden. He spent the afternoon at home. He went out with sister, to come to Boston. I did not sit up for him. He was at home all day Thursday; the fore part of the day he was at home at work in the garden. He spent the evening at home; read to us part of the time. We were all at home that evening, and spent the time in music and reading.

I next saw him Friday, at breakfast. I think he dined at home; and I saw him again at five o'clock. He was at home at tea. Mr. Horsford sent out a number of articles, on New Year's day, from the College. There was a cap, and a pair of overalls, two coats, and a pair of pantaloons. It was after father's arrest.

[The Jury were here allowed a short recess.]

Ann Finnigan, *sworn.* — I live in Dr. Webster's family. I went there the 15th November, on Friday evening. He usually took breakfast at half past seven to eight o'clock. I had been there a fortnight when he was arrested. He had usually dined at two o'clock. He was out Wednesday, and came into the kitchen at twelve. I fix the time, by thinking that I was belated with dinner. His coming in made me think it was late, and so I looked at the clock. This was Wednesday, the day before Thanksgiving. He took down the key, and went out into the garden. He breakfasted at home, I remember, while I was there, every day; but I don't remember seeing him the morning after his arrest. That is the first time I missed him from the breakfast-table while I was there.

Catharine T. Webster, *sworn.* — I am a daughter of Prof. Webster. On Friday afternoon, the 23d November, he came home between five and six, P. M. He went, with mother and my sisters, to a friend's house, where we were invited to a party. He and mother left us at the gate, to go to Mr. Treadwell's. Saw him again at half past twelve at night. It was about one when we retired. On Wednesday before Thanksgiving, he came home between eleven and twelve, and worked in the garden. He passed the evening with me at Mr. Cunningham's, in Boston. We left there about half past ten, and came out in the eleven o'clock omnibus. We walked from Mr. Cunningham's to the toll-house, and then took the omnibus. While waiting at the toll-house, I remember seeing a notice of a reward for Dr. Parkman. Sister pointed it out first; and father read it aloud to us, as it was rather high up.

The Sunday preceding Thanksgiving, I saw father, with his shoes in his hand, preparing to come to town; but mother dissuaded him from it. He was coming to town to tell Dr. Francis Parkman that he was the individual who had the conversation with his brother, the Friday previous. He waited, however, and went to church. After

church, I went to walk with him. He came to Boston that afternoon. I saw him that evening, between nine and ten, in his study. At about dark, I heard his voice in the entry, but did not see him. He came into the parlor about ten o'clock, from his study. I heard from my mother, that he brought out a bundle Friday. [Objected to.]

Dr. Winslow Lewis, *recalled.* — I have been acquainted with Prof. Webster about thirty years. I know many of his acquaintances. He is considered by others, in general, as a man of humanity and kindly feelings. I was his pupil when he was a physician in the alms-house. In regard to the time when he was Professor at Mason-street College, I could never get into his room without knocking at the door. He was Professor there at the same time I was Demonstator.

I have noticed the cut in the thorax of the remains, carefully. The cut was anything but a clean cut. If it had been a clean one, it would not have shown that it was made before death. I could not tell whether a broken calcined bone was broken before or after it was calcined.

We finished our examination on Sunday. I think Dr. Strong was there afterwards. We agreed upon the substance of our report on Saturday. There was a bloodless appearance about the pelvis, as though it had been soaked. I attributed this appearance to having laid in water.

Cross-examination. I have not examined osteology as closely as Dr. Wyman, and rather prefer Dr. Wyman's opinion to my own, on that subject. There is less likelihood of a clean cut after death than before.

Direct examination. It could easily be done in the thorax, after death, for the flesh there is tense.

George H. Gay, *recalled.* — I was one of the Committee to examine the remains at the Medical College. We finished on Sunday. I think I saw Dr. Strong there on Monday. My impression, at the time I looked at the cut, was, that it was done with a cane. Some of the remains were bloodless. I am speaking of the parts that were found in the privy. They seemed to have been soaked in some liquid.

Oliver W. Holmes, *recalled.* — There are two principal authorities on the subject of the quantity of blood in the human body; one of Haller, and the other of Valentine.

Haller says one fifth of the body, or about twenty-seven or twenty-eight pounds, is the average quantity.

Valentine states it to be between one fourth and one fifth of the weight of the body in an adult male, or thirty-four and a half pounds on the average — arrived at by a most exact mathematical estimate. Thirty-four pounds would be about seventeen quarts.

The fracture of the bone after calcination depends upon the degree of calcination. Bones may be calcined so as to easily crumble; but calcined partially, they will split, break outward, or inward, and direct across, and in almost any direction. In the experiments I have made, I find such to be the case.

Cross-examination. I would not defer my opinion to that of Dr. Wyman. It is an opinion of a simple physical fact, within any one's reach.

I have examined specimen shown me by Dr. Wyman; but could not say that it was fractured during life. [Bone shown.]

The animal matter is not all removed, and the bone is only partially calcined; and I cannot say that it was fractured during life. I gave my opinion of my own opinion, when you inquired if I would defer my opinion to that of Dr. Wyman.

Professor E. N. Horsford, *sworn*. — I am instructor at the University, at Cambridge, in the Lawrence Scientific School. I have delivered part of a course of lectures, at the Medical College, since Dr. Webster's arrest. I commenced instructing in chemistry in 1841. I have had occasion to use nitrate of copper in my laboratory, and I have seen it used in other laboratories. It is a solution of copper in nitric acid, and is used in organic analyses.

I have tried nitric acid, and also potash, in dissolving bones and flesh. I tried it on the hock-bone of beef, and on the muscle, too; using the commercial nitric acid. The muscle was placed in one vessel, and the bone in another. In about four hours and twenty minutes, the bones had disappeared; and in five hours and twenty minutes, the vessel was entirely clear, leaving no trace of it. The flesh disappeared in three or four hours. I have dissolved human muscle in a very short time; but have made no experiments with human bones. I took the laboratory after Prof. Webster's arrest. There are two instruments, called Sanctorious thermometers. Colored liquid is required, which is made of solutions of copper.

As to blood, I have occasion to use it not unfrequently. Have never made experiments on gases in anatomical vaults. Gases are generated there. I sent out some clothing, and an old blanket, to Prof. Webster's house, after his arrest. They consisted of a pair of overalls, a blue coat, and a little light cap. I examined them only cursorily before I sent them out. I knew Prof. Webster was under arrest. I saw them again, and looked at them carefully; but I saw no blood on them. I did not see any change in them.

Cross-examination. I found them in the small back room. I think the policeman had had them for a pillow. They were lying on the floor.

When I took the laboratory, there were four or five bottles of nitric acid, of perhaps a gallon, or a gallon and a half. The weight depends upon the concentration — perhaps fourteen pounds. I think it would take rather more than the weight of the whole flesh and bone to dissolve a human body. Nitric acid would act on a metallic vessel somewhat. The best vessel would be one lined with porcelain. In the experiments I made, no smell came out. It would not, without a cover being off, and the temperature were raised to a great heat.

Nothing would come from the body itself, but from the acid. There is no vessel there that would contain one hundred and fifty pounds of nitric acid. Nitrate of copper may be spilled about the laboratory, and I did not think much of it. It might affect clothes, in process of time. It is slowly corrosive, when applied to the skin. In my last lecture, I used blood, to show the effect of heat upon it. In my experiments with the nitric acid, I used something more than four pounds of acid to the four pounds of bone.

By the Defence. To destroy flesh by nitric acid, would depend

upon the amount of flesh put in. The identity of the flesh would be lost in a very short time. I have known Dr. Webster several years. His general reputation is that of kindness and mildness.

By the Government. Should not think nitric acid would act on mineral teeth. I have never tried it, though.

Dr. Wm. T. G. Morton, *sworn.* — I am a physician. Have practised dentistry about eight years. I usually manufacture my own teeth. I have had opportunities of knowing Dr. Keep's work, and have been instructed in his method of manufacturing teeth.

[Teeth shown.]

I see no particular mark by which to identify the teeth. I should think they had been ground on the inside. It is not unusual to grind out the inside, to make room for the tongue. It is done by small wheels, from the size of a fourpence to a dollar. I have used platinum pins in my manufacture. It is not unusual. There are holes in the plate, for the pins. There is no peculiarity in the position of the holes. In a book I have recently read, it is laid down that the best place is between the first bicuspid and the last molar, for the insertion of these pins in absorption of the lower jaw. I could take this mould and find teeth which would even fit better than these shown me.

[Witness shows a tooth, and applies it to the mould.]

This fits on the right side, as to length. The general outline of all jaws is alike.

[Witness showed some moulds where absorption is greater than that seen in the mould of Dr. Parkman's mouth.]

Here is one with the same number of teeth, though not quite so great an absorption. The block of teeth shown me look like teeth of mine, when they fall into the furnace. There are some teeth which I should think would be more likely to be found in the mouth than others. We don't pull them, for they will often remain many years. One is an eye-tooth.

These models I have shown are those of the most marked cases that have occurred in my practice. On the application of great heat, this block [found in the furnace] may have warped so as to fit this mould of Dr. Keep's.

Cross-examination. I knew Dr. Parkman when he was alive. I never saw any two jaws alike; so I cannot say anything about a peculiar jaw. There is a general resemblance in all jaws, in some parts. I could n't say that his was peculiar.

I could give the names of those the models of whose jaws resemble Dr. Parkman; but I do not like to give the names of my patients. In many instances, I could tell Dr. Keep's work; but would not swear to every case. Teeth, when set and completed for one man, will not fit another man's mouth. I should judge, from the mould, Dr. Parkman was about fifty-five. I have one case here, where the absorption is as abrupt as in Dr. Parkman's; and here is another which is not.

By Mr. Sohier. The blocks, separate and distinct, might fit two mouths.

By Mr. Clifford. If I had a jaw to operate on, and had noticed it, and had taken an impression, and that had any peculiar marks

about it, and it had not been a long time since, I could probably identify it.

By the Court. The model indicates all the peculiarities of a jaw — as stumps and cavities.

By Mr. Sohier. The model would show the jaw, with the muscles on it. I might recognize a model; but I would not feel positive.

PROFESSOR DANIEL TREADWELL, *recalled.* — I live in Dr. Webster's immediate neighborhood. I remember the Friday of Dr. Parkman's disappearance. Dr. Webster and wife came to my house, about half past eight. There were Dr. Morrill Wyman, Mrs. Treadwell, and myself, when he came in. The conversation was on a great variety of topics. It was nearly ten when they left. Since his arrest, I have thought of the conversation, but could think of nothing unusual. He seemed perfectly self-possessed. I saw him again, the next week, twice. Once, on Tuesday evening, a little past six, somewhere between his house and the church, near the corner of the burial-ground. I was going towards the post-office. I had met him going home, two or three times, coming in from Boston, as I thought. Tuesday evening, we had a short conversation. I saw him once besides that, but can't say when, exactly. He usually spoke of general topics. He spoke of Dr. Parkman, and I talked with him on that subject. There was nothing unusual about his appearance and conversation. He spoke in his usual animated manner.

Cross-examination. I am quite confident that, on Tuesday, he was going to his home. I think it must have been after six, for I had taken my tea. He did n't speak of going to the bookstore. As I left him, after speaking of the disappearance of Dr. Parkman, he pointed to a star, and asked what star it was. I saw him Friday evening, and Tuesday evening, and another evening. Tuesday evening, our conversation was near the grave-yard, and after six.

[The Court here adjourned from two till half past three o'clock.]

AFTERNOON.

[The Court came in at half past three, and the evidence for the defence was resumed.]

DR. JAMES W. STONE, *recalled.* — I am one of the committee who made the post mortem examination of the body; the examination was entirely finished on Sunday, December 2d. The hole in the thorax had no appearance of being a clean cut. There is not the slightest difficulty in making a clean cut after death. Paid much attention to dissection, while a student, and am satisfied that a clean cut could be made as easily, with a sharp knife, upon the human subject, as the butcher makes them daily upon the flesh of animals. Particularly where this hole existed, there could be no difficulty in making a clean cut, as the muscles between the ribs remain tense after death.

PHILENA B. HATCH, *sworn.* — I live at No. 15, Vine-street. I used to know Dr. George Parkman by sight, and had known him so for fifteen years. The last time I saw him was on Friday, the 23d of November, in Cambridge-street, between North Russell and Blossom streets. I was going home, and he was going towards Court-street. When I got home, it was about twelve or thirteen minutes of two. I looked at my clock, to see how long I had been out. I fix the date

by my husband going to Vermont on the morning of the 22d. That very day my sister came down from Maine; and the next day I went up to South End, towards Roxbury, to tell my sister's daughter of it, and I was returning when I met Dr. Parkman. I mentioned it after I heard he was missing, and remarked that he could not have been gone a great while, for I had seen him the afternoon before.

Cross-examination. I don't know but that Dr. Parkman turned round; I was not his keeper. I mentioned to my sister, after I got into the house, that I had met "Chin," so as to draw a smile, as she was low-spirited, and also because he was the only person I met that I knew. She asked who I meant, and I told her Dr. Parkman. I said "Chin," because he had such a long chin, and I wanted to make her smile. I had not seen Dr. Parkman before for some time. I met him in Cambridge-street. He was on the same side-walk — on the right-hand side going down. I don't know whether he turned down Blossom-street or not. It was sometime in the afternoon I mentioned it to my sister, but I can't say what time.

JOSEPH HATCH, *sworn.* — I reside at No. 15, Vine-street. I went away from the city on Thursday, the 22d day of November. I went to Corinth, in the State of Vermont. I returned on Monday, the 3d of December. The person last on the stand is my wife.

WILLIAM V. THOMPSON, *sworn.* — I reside in East Cambridge. I am clerk in the office of the Registry of Deeds. I went to Prof. Webster's house, Sunday evening, with Mr. Fuller. I should think it was six o'clock. We went to see the date of the mortgage he had paid the preceding Friday. A young lady opened the door. I went into Dr. Webster's study. I asked him if he recollected the time the mortgage was given. He said, if we would wait a moment or two, he would get it. He looked into his trunk on the floor, and remarked that it was strange he could not find the paper. He then said he could give me the information another way. He then read from a book I supposed a journal, and gave the date of a mortgage; and corrected himself instantly, and said that was not the date I wanted. I then told him that I wanted the date of the mortgage he paid the money on on Friday. He gave the date, and it proved to be on personal property. I then said I would call at the City Clerk's. There were two mortgages, and I made a minute of them, and went to Mr. Blake's. That was all about the mortgage. There was other conversation, but not about this. Dr. Webster said that he had called over to see Dr. Francis Parkman, and that he had told him that he was the gentleman who had an interview with his brother on the Friday of his disappearance. He also said, when he came over, he called at the toll-house, and asked the toll-keeper if he had seen Dr. Parkman, as he heard he had. He said, also, that he called at Mr. Page's, to see if Dr. Parkman had cancelled the mortgage. He said that he did not find Mr. Page at home, and was not aware that his communion-day came on the last Sabbath, instead of the first, in the month. He said he ascertained that the mortgage had not been cancelled. I said that we would call at Mr. Page's office and see, as Mr. Page might have overlooked it. I left the house. I saw nothing of any trembling. I conversed with him, and noticed nothing except the wrong date. The first date he gave me was that of the large mort-

gage. I have known Dr. Parkman, and have seen him very frequently within the last five years.

On the 23d of November, I saw him in Causeway-street; on Friday, about ten minutes or a quarter past two o'clock, I was going towards Charlestown Bridge, and he was coming towards Leverett-street, and we met a little below the centre of the street. There is a millinery shop on one side, and a carpenter's shop on the other. I think it was near Merrimac-street. I may be mistaken as to the name of the street, though I could point it out. [A map of the city was shown, and he pointed out the locality.] It was somewhere near Portland-street. He was on the opposite side to me, and I was on the left-hand side, going down. I paid for this coat on that day; by this way I fix the time; and I also made a short examination of a title at the Registry, for a man who kept on India-street.

I had not been in Boston for about nine days, at that time. I was in again the week after. I went to carry my memorandum to this man in India-street. I was in afterwards on Thanksgiving day. The man was not at home, and I wrote a memorandum, as I only had the message verbal, and the young man there wished me to do so.

I started from East Cambridge, by one clock, about three or four minutes of two. The clock on the Court-house was at two then. The first place I went to was Orrin Towle's, at the corner of Elm and Hanover streets, to leave some deeds. I took out my watch there, and it was twenty-three or twenty-five minutes past two o'clock. This was after I passed Dr. Parkman. I came into town on foot. I went into Leverett-street, then into Causeway-street, then into the street which leads into Portland-street, then down Hanover-street. I am called a quick walker.

I noticed Dr. Parkman's appearance. He was dressed in a dark frock coat, dark pants, and a dark hat. When I saw him, he had his hands behind him, and seemed to be excited and angry about something. I did not turn round to look after him. He was walking. The first time I called to mind that I had seen him was on Sunday, about five o'clock; and I told it to Mr. Blake, the ex-City Marshal.

Cross-examination. I do not think I am near-sighted, nor that I am called near-sighted. My eyes are weak, and I sometimes wear glasses slightly colored. I give attention to copying in Registry of Deeds. I suppose it weakens my eyes, but not to impair them. Hooper & Blake's is further from Leverett-street than the place I have reference to. I met him before I came to the first cross street which leads off to the right; but I cannot call the name of the street. [Map shown.] It is Merrimac-street I mean. It is not a very great distance from Leverett-street. I recollect going down Merrimac-street to Portland-street. I carry a magnifying-glass, for the purpose of looking at fine writing. I have never said that I wrote at times so fine that I could not read it at other times. I swear positively that I never stated that I wrote so fine, in a *mesmeric state*, that I could not read it. I never say *mesmeric* state. I have said to Mr. Andrews that, in the *biological* state, I have written so fine that others could not read it; but never, that I could not read it. I sometimes lecture on Biology. I will not pretend to say that my faculties are different in such a state. I prefer not to answer in regard to it. I do not know that I see any better in a Biological state. Mr. Andrews

said he had seen some very fine writing done in a Biological state, and then I made the remark to him.

Dr. Parkman did not speak to me, and I do not know that he noticed me. I told Mr. Blake on Sunday morning. At Dr. Webster's house, there was some further conversation, which I have not mentioned. I asked Dr. Webster how Dr. Parkman appeared when he paid him the money. He said that he appeared angry and excited. He also informed me that "Dr. Parkman had called on Mr. Pettee, who sold his tickets for the lectures, and inquired if he had any money in his hands belonging to Dr. Webster. Mr. Pettee informed him (Dr. Parkman) that he did have some. He (Dr. Parkman) then wished him to pay over the money in his hands to him, and he would give him his receipt. Mr. Pettee refused. Dr. Parkman was very angry, and used an expression that Dr. Webster was a d——d whelp." I should have stated it before, but I was interrupted by Counsel. When we were coming out, Dr. Webster said, "Gentlemen, I trust you will be successful in your search;" and offered us any assistance in his power. I have always remembered it, and stated it so to Mr. Blake.

[A written statement, made by the witness to Mr. Andrews, was here shown to the witness, which he acknowledged he had signed.]

Mr. Andrews asked me for a *general* outline, as his hands were too cold to write it down; and so I made a general statement. I was about to state further, that Dr. Webster spoke about its creating a great sensation in Dr. Parkman's family, and the community. I think that is all. No, it is not all yet. I think he did say that Dr. Parkman had used insulting expressions every time he met him, and that he had told Dr. Parkman that he would pay him when he got his money for the tickets to his lectures; and that Dr. Parkman would not believe his word. He either said that two persons were in the room at the time of his paying Dr. Parkman, or a few minutes after. I said it was my impression, and that I was not certain; but Mr. Andrews told me I might as well put it in. I did, and he then asked me to sign it, which I did.

By Mr. Sohier. This Mr. Andrews is the one I supposed employed by the Government in procuring evidence. Mr. Andrews came to the Registry of Deeds. "Put it down rough," he said, "for I can't, my hands are so cold." I told Mr. Andrews that my impression was that Dr. Webster said, that "There were two persons present — the one the janitor, and another person — when he paid the money, or who were there a few minutes after." I said it was my impression; and Mr. Andrews then said, "Never mind,— put it down;" and I did.

Samuel A. Wentworth, *sworn.* — I reside in Vine-street, and am a provision dealer. Was acquainted with Dr. Parkman, and have known him for two years. The last time I saw him was on the 23d of November, in Court-street, between the hours of half past two and half past three o'clock. I fix the time by my dinner hour, being one o'clock. I went to dinner, and came back; and my young man went at two o'clock, and I waited till he came back. My store is No. 1, in Lynde-street. I then went down town. The young man was gone more than half an hour. I came down to Haymarket-square, and went to market for Saturday morning. Dr. Parkman was in Sudbury-street. He was opposite Mrs. Kidder's store; and he stopped all of a sudden, turned round, and faced the street. He was on the

same side of the street with me. He was going down Bowdoin-square. I had passed him when he stopped. He had his hands behind him, under his coat, when he stopped.

Saturday evening, after I had shut up, and it was late, I went home, and my wife said that there had been two men in, looking after Dr. Parkman. I remarked that I guessed he had not gone a great ways, as I only saw him yesterday, near Derby Range, in Court-street. When I first saw him, he was coming towards me; and, as I crossed to go down Sudbury-street, I saw him standing as I have said.

Cross-examination. I spoke to my wife, and to another lady in my house. I communicated it to a Mr. Foster, in Blossom-street, after it was thought Dr. Parkman was found. I did not mention it to the police. I could n't say exactly, but I think it was near three o'clock. I never go Thursday afternoon to buy my marketing. I remember that it was the day I was going to market. I went to market after I got through with my business in Haymarket-square. There was a Mr. Russell with me; a Mr. J. H. Russell. He recollects being with me some time when I saw Dr. Parkman, but does not recollect the exact day. I do not recollect seeing anybody ever that looked like Dr. Parkman. My wife said that two men had been there inquiring after Dr. Parkman. The first time I mentioned it, except to my wife, was on Saturday, after finding the remains. I knew that the rewards were offered.

SAMUEL B. CLELAND, *sworn.* — I reside in Chelsea. My place of business is in South Market-street. I have been acquainted with Dr. George Parkman for about eleven years. I was a tenant of his in 1838–39. I last saw him on Friday, November 23d, on Washington-street, between Milk and Franklin streets, between quarter past three and half past three o'clock — perhaps twenty minutes past three. I fix the hour from the fact that I went to see the Rev. George Wildes, who boards at 18, Franklin-street. Dr. Parkman was on the east side of the street, and was going toward Roxbury. I always called on Mr. Wildes at three o'clock, whenever I wished to get his services, for he was usually at home at that hour. At this time, I was coming from there. On Wednesday, I wrote a note to the Rev. Mr. Allen, of East Boston, requesting him to officiate for us at St. Luke's, in Chelsea, the next Sabbath. Not hearing from him, on Friday morning, I sent a note to him by a boy, but he returned with it, not being able to find him. I have the note with me which he brought back. I then addressed a note to the Rev. Mr. Woart, of Christ Church, inviting him to preach, and sent it by the boy. He returned, with a note, stating that he could not preach all day. I have this note also with me, which fixes the date.

I then waited till three o'clock. I am always sure of finding Mr. Wildes at three o'clock. I called on Mr. Wildes, going through Devonshire-street and up Theatre-alley. He was unable to fill the pulpit on Sunday, and so I came up from Franklin-street to Washington-street.

I saw Dr. George Parkman. He appeared to be walking up Washington-street with a laboring man. The peculiarity struck me, and I noticed him; but, as I approached him, I found he was walking alone. I almost touched him, I came so close. I did not speak to him. I have not spoken to him for several years past. I heard, the following Monday morning, of his disappearance.

Cross-examination. I am not aware of having mentioned to the relatives of Dr. Parkman that I had met him at this time. I spoke of it to my partner, on Monday morning. I also mentioned it to a Mr. Knapp, a police-officer, and asked him if it was necessary to communicate it to Marshal Tukey. He said it was not. I have seen the rewards offered. As it was stated in the reward that he was seen going to South End, I did not think it necessary to mention it to his family. I should have been happy to have done so. I think I cannot fix the exact store where I saw him. I was on the inside. He passed on my left.

I saw him some four or five rods off, when I first saw him. It was about half-way from Franklin and Milk streets. There were some persons between him and myself, when I first saw him. He was walking his usual pace. I do walk somewhat fast. I am not aware of having had any conversation with Mr. Lee, Superintendent of the Providence Railroad. I am not aware of seeing notice that information was wanted by the police. I thought they knew that he was seen going to South End, by the notice in the reward. I read the papers generally, but I do not remember that I noticed that further information was wanted.

[Letters sent to Rev. Mr. Woart were here handed to Counsel by witness.]

Lucius R. Page, *sworn.* — I am City Clerk at Cambridge, and keep the records. I saw Dr. Webster on Sunday, about a quarter before five o'clock. I found him at my house, after I had come home from church. He stated that he called to see if Dr. Parkman had called at my house, to discharge a mortgage. I replied to him that Dr. Parkman had not been there, and told him that I had been there all the time since Friday noon. My office is in my house. I looked at the records before he left, but did not find it discharged.

Abby B. Rhodes, *sworn.* — I reside in Minot-street. I was acquainted with Dr. George Parkman enough to bow when I met him, I have known him for twenty-five years. I have attended his brother's church. I saw him last on Friday, November 23d, in Green-street, at the corner of Lyman-place, near Emery Souther's apothecary store, at one quarter to five o'clock, I think. It was very near dark. There was a man with him. I passed as near as I could, with my daughter between. I was going toward Chambers-street, and he towards Bowdoin-square. He was walking quite fast. We bowed, as we passed.

I fix the time by the fact that that was the only day that I and my daughter went home together through Green-street. We had been out shopping together. At Mr. Hovey's store, in Winter-street, we made purchases. We purchased some muslin-de-laine — eleven yards, at twenty cents a yard. We passed through several streets after that. I brought the bundle with me. They were not charged, and came to $2.20. I was so positive that I had seen him, that I called on Dr. Francis Parkman, Tuesday after, and told him. I was at home Saturday, and my daughter was out. It was neither Thursday nor Saturday, for I was at home Thursday.

I first saw the notice of the disappearance of Dr. Parkman by the paper on Sunday morning. My daughter left town, Saturday afternoon, for Lexington; and on her return, we were speaking about the

disappearance of Dr. Parkman. My daughter said, "Don't you remember we met Dr. Parkman on Friday?"—and I at once recalled it to my mind. I made a memorandum of my purchase. I have it at home.

[Witness was instructed to bring it the next day.]

I did not go out till after dinner. We dine between two and three o'clock. I then went out, about three o'clock, and did my shopping, and was returning when I met Dr. Parkman.

Cross-examination. I have felt a great interest for the family of Dr. Parkman. I never have expressed any doubts or misgivings. I did not express any doubts to Mrs. Patterson. I have never said to my sister, Mrs. Harrington, that if I had not expressed myself so strongly, I should be inclined to doubt. I can't say who the gentleman was that was walking with Dr. Parkman. The two were together, but passed so quickly that I could not notice this man's looks. He was taller than Dr. Webster.

In the interview I had with Dr. Francis Parkman, I told him that my daughter had called to my mind our having passed him on the Friday afternoon of his disappearance. I called on him again, on the Friday after, to tell him that I had heard he had been seen by another party. I did not go to remove any doubts I thought he might have as to the truth of my former statement.

MARY RHODES, *sworn.*—I am daughter of the lady last on the stand. I have known Dr. Parkman by sight nearly ten years. I saw him last on Friday, November 23d, in Green-street, opposite Mr. Souther's, the apothecary. My mother was with me. We had been to Mr. Hovey's store, and had been out shopping, and were returning home. We bought a dress that afternoon. Dr. Parkman passed near me, and I had to move my bundle, so as not to hit him. I was out Saturday morning. I first heard of Dr. Parkman's disappearance on Saturday, at Lexington. I first mentioned it on Tuesday to my mother and my brother; but to no one before I came to Boston. I have taken pains to fix the time in my mind. It was near dark, and about five o'clock.

Cross-examination. There was no discussion at Lexington about it. I read it out of the paper, aloud. I had not heard of the reward. I understood that it was Saturday that he disappeared. I read the *Journal* or *Traveller*. After I reached town, mother spoke of it first. I did not notice particularly the gentleman with Dr. Parkman. He was not taller than Dr. Parkman, but stouter. We did n't see him until we came up to him.

I did not take pains to find out if Dr. Parkman had been found. I don't know as the reward was spoken of. I don't recollect the streets we passed through. I did not return through Green-street any other time with mother. I was with my mother in Green-street, going out on Wednesday, but I came back alone. I don't recollect meeting him that day, but I have seen him frequently, and know him by sight.

SARAH GREENOUGH, *sworn.*—I reside in Cambridge. I knew Dr. George Parkman personally in early life, but within the last few years I have only known him by sight. The last time I saw him was the Friday before Thanksgiving, in Cambridge-street, between South Russell and Belknap streets, at a little before three o'clock. The way I fix the time is, that I had an engagement out to tea. After dinner, I had the horse harnessed, to bring me down to the bridge. When I

came to the bridge, I left the carriage, and looked at my watch, to see if I should be able to get into the city to see my son, who goes out at three o'clock, before he should leave his house. Just as I met Dr. Parkman, I noticed the time, to see how long I had been coming across the bridge, and I saw I had been ten minutes. When I met Dr. Parkman, it was just ten minutes of three o'clock. He was on the opposite side of the street. I was on the left hand side, coming in, and he was on the right hand side. I reached my son's, in Temple-street, just at three o'clock, as he was about to go out.

Cross-examination. He was going towards the bridge. I should not have thought of the circumstance again, if I had not heard of Dr. Parkman's disappearance soon after. I saw him across the street. I first saw him when he was nearly abreast of me.

By the Court. I can't say positively that it was him that I saw, but that is my belief.

SAMUEL B. DEAN, *sworn.*—I am a salesman for C. F. Hovey & Co., in Winter-street. On the 23d of November last, there were sold eleven yards of muslin-de-laine, at twenty cents per yard. There was no other sale of that kind of goods, for cash, that day. I cannot tell to whom the sale was made, but I made the memorandum of the sale. I cannot give the time of day, but from the entry in the book I should infer it was in the latter part of the day.

[Mr. Sohier now stated to the Court that he believed the evidence for the defence was all in; but he should like to consult his minutes, to see that no witness had been overlooked.

The Court then adjourned.]

TENTH DAY.—*Friday, March 29th.*

[The Court came in at nine o'clock; and after the usual calling of the Jury by the Clerk, Mr. Sohier rose and stated to the Court that the defence rested their case here.]

Mr. Clifford, Attorney General, here said that perhaps he did not state it so distinctly in his opening as he should have done, but he wished the Counsel for the Defence to understand that the Government held that on the large mortgage there were sums still due to other individuals besides Dr. Parkman, which would not become due till 1851. These sums amounted to over $500.

The following rebutting testimony was then introduced by the Government.

JOSEPH SANDERSON, *sworn.*—I am one of the police of Cambridge. I have known Dr. Webster for about four years. [This witness was called to show where Dr. Webster was one night during the week of the disappearance of Dr. Parkman.] I saw him between Sunday and Thanksgiving day, after the disappearance of Dr. Parkman. I saw him come out of the theatre coach, in Harvard-square, close to the Colleges, where the omnibuses stop. I should think it was between eleven and twelve o'clock at night. None of his family got out with him. I was standing near the omnibus, and I followed him towards his house. I don't recollect seeing him after he got past Graduate Hall. I followed him, perhaps fifteen rods, on the side-walk, round the square. I am a watchman.

Mr. John Bryant met me immediately after. He is a watchman, and I made an observation to him that that was Dr. Webster. Dr. Webster might have touched me in passing. I first called it to mind the day after Dr. Webster's arrest. The theatre coaches come out from eleven to twelve o'clock. I am confident it was past eleven, from the direction I took on my round, which I never take till after eleven o'clock, unless something unusual calls me.

Cross-examination. I mentioned this to Mr. Bryant on Saturday. I am a watchman. I was on that part of my round which I do not take till after eleven o'clock. I fix the hour in my mind from that circumstance. I don't know how many persons got out of the coach. I don't recollect how many went the way he did. I don't know whether there were any ladies who got out with him. I could not say that it was, or was not, Wednesday. I have never set any night. It was not Thanksgiving day; for that was pleasant, and this evening was somewhat hazy.

I don't know it was not Tuesday. It was either Monday, Tuesday, or Wednesday. I passed him as he got out of the coach, and I turned round and walked behind him. He walked faster than I did. I followed him nearly to his house. but could only see him as far as the upper end of Graduate Hall, where the bank is. When the coach stopped, I was right against the wheel-horses, and was looking at the people getting out of the coach. I know Dr. Webster by sight, but do not speak to him. The moon was obscured at that time, but it was as light as a starlight night. I met him; he came towards me, and I was standing still at the time. I turned round then. The first person I spoke to, after that, was Mr. Bryant. After passing Graduate Hall, there is a street running down to the left; that is Church-street. The theatre omnibuses run every night; it is a common thing. They run to accommodate persons who have been in Boston to the theatre.

Dr. Daniel Harwood, *sworn.* — I am a dentist, and have been in practice here since 1829, except from April 1841, to January 1847. I am a member of the Massachusetts Medical Society. I have always been very busily occupied with my business. I was one of the first to manufacture mineral teeth extensively, though perhaps not the first. There are characteristics generally about teeth, by which a dentist would be as likely to know his own works, as a sculptor would be to recognize his own statues, or a merchant his own writing. I mean to say this is generally so.

Where there are several teeth, or a block, they are called large work. Single teeth would depend upon composition for their identification; but in blocks, on the form and combination, as well as composition. I should not like to say I could distinguish Dr. Keep's work certainly, but I think I could commonly identify his work. When I see patients with artificial teeth fixed by several dentists, I am in the habit of saying, "This is Dr. Keep's work; and this, another's;" calling over the names of the different dentists who I think made them. The assistant in my laboratory is also able to detect the work of different individuals, by their form and composition.

[The block of mineral teeth found in the furnace was here shown to the witness.]

These teeth have been so changed, and so covered by foreign substances, that I should not wish to state with positiveness that they are Dr. Keep's work. I have the impression that Dr. Morton, and Dr. Kel-

ley, of Newburyport, use the same materials, and in nearly the same way, as Dr. Keep. All mineral teeth are made of nearly the same substances — quartz, felspar, and fine white clay; but they differ in their proportions of these materials. Dr. Keep's teeth are almost destitute of white clay. This work appears to have been done by Dr. Keep. I am quite confident that it is Dr. Keep's style and composition. When he manufactures blocks of teeth, he does not separate each tooth down to the gum, as I do; but he leaves them connected together, probably for the purpose of giving them greater strength. I know Dr. Keep's work, from having seen it in the mouths of patients, and sometimes at his place. I don't say that Dr. Keep's style is his alone. His style is not to separate the teeth far from their edge or point. [Models shown.] I should think, from the absorption of bone at one part on the left — [Objected to, as not being proper for rebutting testimony; and the Court ruled that it was not, of course, admissible to go into general testimony now; but that it was proper to state the peculiarities upon which to ground judgment.] If I had the moulds, and if I had made the teeth, and if I had seen them a short time before, I should know teeth that I had made. I think Dr. Keep could not have been mistaken. [Here the witness stated that since handling the block shown him, a portion of the top of a tooth had come off, thus showing the original composition.]

I should not conceive how he could have been mistaken, unless there were duplicates of the set.

Cross-examination. The block has a peculiarity; has a projection below the molar teeth, which corresponds to an extraordinary absorption. From this, as well as the general workmanship and style of making, I should know them, if they were mine, even in such a condition. I think there are several gentlemen who make teeth in blocks, but in a different way. I have seen blocks something like that. I have looked over two bushels of models, but have not seen any so marked and so peculiar. From the circumstances I have stated, I do not think that the maker of these teeth could have been mistaken.

Dr. Joshua Tucker, *sworn.* — I am a dentist, in this city. I have received a medical education, and have been in the practice of dentistry twenty-one years; and have been employed all the time. I have given attention continually to artificial teeth, and manufacture sets, as well as single teeth. [The block of teeth found in the furnace here shown.] I should not like to give any opinion on any but the left lower block, and that I should think could be identified by a dentist. I think the dentist who made it could identify it as easily as an artist, who had spent a week in painting a man's face on canvass, would recognize the picture painted by himself.

Cross-examination. I should think, in connection with a model, a man could identify his work. If a man made the teeth, and had the model from which he made them, then I should think he might identify them. I would not say that they might not be warped into shape by heat.

Dr. Willard W. Codman, *sworn.* — I am a dentist. I have received a medical education, and have been connected pretty largely with dentistry, for about fifteen years; part of that time I wrought upon mineral teeth entirely. [The teeth found in the furnace shown to the witness.] I think they furnish sufficient means of identification.

By the Court. — I mean to say, that, from the workmanship and materials of their composition, an artist might still be able to identify his work, even in this condition.

Cross-examined. There would be a very strong probability that he could identify them as they are. The teeth might warp into another shape, or might not. There is a very strong probability that a dentist could tell his own teeth; not so well, though, after they had been in the fire, as before.

Benjamin H. Todd, *sworn.* — Reside in Boston, and am employed in the Custom House. On Sunday afternoon after the disappearance of Dr. Parkman, I was at the toll-house, on the Cambridge side of Cragie's Bridge. It was about dusk when we got over. Mr. Littlefield was in company with me. He paid the toll. We went over out of curiosity, as we heard that Marshal Tukey, and a number of the police, were there, searching for Dr. Parkman. There was the toll-man stood at the door, and an old gentleman sat in the back part of the room, and perhaps another gentleman. Mr. Littlefield asked if the police had been over; and the toll-man said that they had, and had gone back into Boston. I asked the toll-man if he was the man who had seen Dr. Parkman go over with an Irishman? He said No, it was a young man, who had gone to tea. Littlefield said he was connected with the College. There was some conversation about Dr. Webster paying Dr. Parkman some money, and Mr. Littlefield said he saw Dr. Parkman coming toward the College on Friday afternoon. That is all I recollect he said.

Cross-examined. I don't recollect hearing Mr. Littlefield say that Dr. Webster paid Dr. Parkman some money. He did not say that he saw Dr. Parkman go away from the College that Friday afternoon. I recollect every word he said. I have kept it in my mind ever since. I have sometimes thought of it half a dozen times a day. I met Mr. Littlefield in the street, since the trial began, and he asked if I recollected what was said over to Cambridge. He told me, one time, he thought I would be summoned. I never saw Littlefield in Gibbs' Hotel in my life.

Isaac H. Russell, *sworn.* — I am a resident of Boston, and dealer in dry goods. I know Mr. Samuel A. Wentworth. I am of the firm of Jacobs & Co. I do not recollect walking with Mr. Wentworth any particular day. I don't recollect being in his company on Friday, the day of Dr. Parkman's disappearance. I was with him once, when he pointed out Dr. Parkman. It was before Dr. Parkman's disappearance. It must have been one day, or might have been three months; I can't say. I don't recollect when I saw Dr. Parkman. If it had been near his disappearance, I should have remembered. I don't recollect the day of the month, or the day of the week. I saw advertisements in the papers about Dr. Parkman, and I did not then call to mind that I had seen him.

By the Court. Where I was, when I was with Wentworth and saw Dr. Parkman, I can't say.

Cross-examined. I occasionally walk with Mr. Wentworth. I can't say where I was when I heard of the disappearance of Dr. Parkman; at what time in the month it was, or on what day. If it had been a short time before the disappearance, I should have recollected.

Reëxamined. I read the papers daily.

[Mr. Clifford here stated that there were some four or five witnesses whom he wished to introduce, to show that there was a person in Boston, at the time of Dr. Parkman's disappearance, who bore a strong resemblance to Dr. Parkman, in form, gait and manner; and that so strong, that he was approached and spoken to by persons who knew Dr. Parkman; and he cited a case where such testimony was introduced.

Judge Merrick objected to such testimony, and thought it was entirely inadmissible, and contrary to the universal practice of the Courts, in questions of identity.]

Mr. Clifford. Suppose that there was an individual who had certain great peculiarities, and that he was met by persons who did not speak to him, but taken by them for a person whom he resembled, and that this person was met by others, who, on account of this resemblance, spoke to him, — might not these last persons be introduced in a case of this kind?

Chief Justice Shaw. If the person was here, there would, perhaps, be no objection to his introduction, and the Jury might then draw opinions for themselves; but the testimony in the present case is held to be inadmissible, as of a too remote and unsatisfactory nature.

[The Jury were here allowed a few minutes recess.]

GEORGE W. FIFIELD, *sworn.* — I keep toll-house on Cragie's Bridge. I remember about the time the clock was put up on the Court House at East Cambridge. It was put up last fall. It has not kept very good time. It frequently stops, and does not agree with other clocks. I can see from the bridge the Lowell R. R. clock, and have an opportunity to compare the Court House clock with others. It is a very inaccurate timepiece, according to my experience.

Cross-examined. I can't say the day it was put up. I have sometimes noticed half an hour difference, and at other times a quarter of an hour difference. It is sometimes faster, and sometimes slower, than the railroad time.

SAMUEL B. FULLER, *sworn.* — I am toll-keeper on Cambridge Bridge, and have occasion to notice the clock on East Cambridge Court House. It has stopped very frequently; and sometimes I have noticed that it would be five or twenty minutes out of the way; and sometimes it would stop entirely, in a storm.

[Mr. Clifford then informed the Court that the Government would rest their case here.]

CLOSING ARGUMENT OF HON. PLINY MERRICK.

May it please the Court and Gentlemen of the Jury:

I need not say to you, Gentlemen, with what feeling of embarrassment I rise to address you, at the close of this protracted investigation. I cannot be more sensible than you are, of the difficulty to be encountered in the examination of so much testimony, or of the interest there is that all this testimony shall be rightly understood, and the consequences which properly ensue from it be rightly deduced. A case, Gentlemen, is presented to you, transcending in public interest any that has heretofore occupied the attention of our judicial tribunals. A

few months since, a well-known and highly respectable individual suddenly disappeared from this city. His disappearance was followed by inquiries broad, extensive, almost universal. An individual connected with a family well known in this community — himself connected with large and great interests in it — who had been accustomed, day by day, and month by month, and year after year, to mingle freely in the community — without any known cause, was lost.

His friends, naturally, inevitably, took the deepest interest in his discovery, and in his recovery. They enlisted the entire official force of the community in their service. Much more than that! They enlisted the entire sympathies of the whole community. When all inquiry, and all investigation, and all effort, seemed to be utterly baffled, and there was no hope left, and there was, in reference to this individual, one universal darkness, a sudden and astounding notice fell upon us all. The mangled remains of his dead body, it was believed, were found. The perpetrator of the awful crime, which brought that body to the condition in which it was found, was said also to have been detected; and that individual was one whom, in the ordinary course of things, would have been no more suspected of such atrocious criminality than you, or any one of you or of us who are engaged in this present trial.

That discovery, Gentlemen, so astounding, so overwhelming, was instantaneously followed by a disclosure to the community, in every form in which disclosure can be made, of the various circumstances tending to establish the facts, that these remains which were found were the remains of the body of Dr. George Parkman, and that the prisoner at the bar was connected with the scene of his death. Incident after incident was communicated to the public, and everything which could bear against this unhappy prisoner was spread abroad, as it were, on the wings of the wind. Every sheet that was published — every hour that passed — gave new tokens to the community, at once of the death of Dr. Parkman, and, as it was supposed, of the guilt of this prisoner.

In the mean time, Gentlemen, the prisoner now at the bar was in the cells of your prison, a silent sufferer. While every incident tending most unfavorably to affect him was the subject of daily communication and discussion abroad, he was alone, and without friends, and without help, to repel these accumulating circumstances of the charge against him. Gentlemen, he waited not only in silence, but in hope and in confidence. He sent forth no appeal to the community. He suffered these communications of which I have spoken to be spread broad-cast through the community, till the voice of the echo from the most distant parts of our country, and from other lands, without ever once asking this community even to suspend the formation of their judgment. He waited, Gentlemen, in silence, and in hope and in confidence, because he had lived long in our midst, and knew who were finally to be his judges. He knew that a time was coming, when passion would subside, when prejudice would give way, when calm reason would intervene, and his country would try him fairly, in the midst of her tribunals of justice.

That hope and that expectation are not disappointed. He never asked, Gentlemen of the Jury, one hour's delay of this investigation; but so soon as it was the pleasure and convenience of the Govern-

ment, consistently with the arrangements of this Court, to enter upon this trial, he was prepared; — not prepared, Gentlemen, by a series of experiments and investigations, which he could make in his silent and solitary cell — but prepared in that consciousness which enabled him, or would enable him, to come before a Jury of his country, and say, whatever might be the appearances against him, he could confidently trust at once his cause and his life with an impartial Jury, under the instructions of a learned and impartial Court.

Gentlemen, it is impossible that you yourselves did not know much of this cause, before you took the seats you now occupy. It is impossible that you have not, in one form or in another form, heard much of that which has been detailed to you in the evidence which the Government have produced upon the present trial. And yet, one and all of you, under as solemn responsibilities as can be imposed upon you, have declared that all those circumstances, and all the comments which may have been made upon them, created not only no prejudice in your minds, but not even a bias, against the prisoner. And if, Gentlemen, these circumstances, though known as well before as since this trial, could not then produce even so much as a bias on your minds, I have some ground upon which I may estimate the effect which this same evidence, now presented in a judicial form, is entitled to produce on the same minds.

What, Gentlemen, is the charge that the Government has made against the prisoner? — what the issue to be tried, and what the proofs by which that issue is to be determined? The Government charge that, on the 23d of November, 1849, George Parkman was murdered by the prisoner at the bar. In various forms, such as the officer of the Government chose to make, upon the investigation which took place before the Grand Jury, the charge is presented, in the indictment upon which the prisoner is now tried.

It has been stated to you, that it is competent for the Government, or the officer of the Government, in preparing an indictment, to present the charge in various forms; because, upon the trial — the final trial — some difference of evidence may render the different statement of the particular grounds of the charge essential. It is competent, and the Government have availed themselves of that competency, to present different counts. I do not now speak, Gentlemen — it is not necessary that at this moment I should — upon the different manners in which the Government have, in this indictment, charged this defendant with this crime. Enough, that the defendant is on trial for his life, charged with a capital offence.

To establish this charge against the defendant, there are certain facts which it is indispensable that the Government must prove. They must prove the death of George Parkman. They must prove that his death was by the agency of another person. They must prove that the prisoner at the bar was that agent; and that, in causing the death of George Parkman, he acted with malice aforethought. If any one of these facts is not proved, the Government cannot claim nor ask for a conviction. Unless the death is proved, and that it was by the agency of the individual, they can have no ground of conviction. Unless they show that the death occurred, and by the agency of the defendant, and that it was also with malice aforethought, they can have no verdict for murder, but may have a verdict for a less offence — for manslaughter.

These facts, then, Gentlemen, which the Government must prove, they have undertaken to establish by much evidence. Time has been exhausted to an unusual extent, — not to an unnecessary extent, but to an unusual extent, — in gathering together the facts which are called the proofs in this case against the prisoner at the bar Though, Gentlemen, we have spent day after day, not one single fact is proved which comes directly to any one of the great facts which the Government are bound to establish. By no direct evidence is it shown even that Dr. George Parkman is no longer in the land of the living; by no direct evidence that he was slain by the agency of another human being. By no direct evidence is it claimed that it is shown that the defendant had any direct agency in causing or procuring that death. But every one of these facts is sought to be proved by collateral circumstances; thus asking you to say that certain facts, which are not proved, are known; and from those facts you may draw, by inference, those other facts which are yet unknown.

Let us see, then, Gentlemen, precisely what the proposition of the Government is; let us see precisely what the prisoner at the bar concedes; and then we shall find the precise issue to be tried, and the question which you, upon your high responsibility as jurors, are called upon to determine. The precise proposition which the Government undertakes to establish, by the indirect testimony which the Counsel has introduced here; is, that on the 23d of November, 1849, Dr. George Parkman, between the hours of one and two o'clock, entered into the Medical College, and had an interview there with the prisoner at the bar; and that he never left that building — that he and the prisoner never separated; but that, shortly afterwards, the body of Dr. Parkman was found dead in the same building. This is the proposition which the Government undertakes to establish. Mark, Gentlemen, that the Government do not undertake to establish, nor is there any evidence in the case from which it is by possibility to be inferred, that these parties ever met again. If they separated there, there is no proof that they have seen each other since. None, Gentlemen! Unless George Parkman was the victim of violence, then there is nothing to connect his death with the hand of the prisoner at the bar. This is the proposition of the Government.

What does the defendant say? He concedes that which he has always stated, that at half after one o'clock, on the 23d of November, 1849, there was an interview at that College, for a specific purpose, between him and Dr. Parkman; that that specific purpose was then accomplished; and that Dr. Parkman then, in life and in activity, left that building, or at least the room in which the interview between the parties then took place. That is the proposition of the prisoner at the bar, whose life is in your hands, — that Dr. Parkman left this building, after a short interview of half a moment, at half after one o'clock. That is all the prisoner at the bar concedes. Beyond that, he denies everything. And if the Government will have it that George Parkman was in that building, or in that room, at a later hour than that, they must prove it. The prisoner concedes no time to them at all. It was half after one o'clock, as he says, that this interview took place, and it terminated then.

Now, Gentlemen, we stand upon these two propositions, which make the issue between the Government and the prisoner. Whether Dr. Parkman did, in fact, leave that building or not, is to be deter-

mined. We are to examine all the evidence which is in this case. To show that he did not leave this building — that he was slain there — that the interview terminated in the death of Dr. Parkman — they must prove that he never left that building. All the evidence of the Government is in the case.

I do not mean to say to you, Gentlemen, by any means, that this mass of circumstantial evidence that the Government have brought in here has not a tendency, or, if you please, a very strong tendency, to show the truth of the fact charged upon the prisoner, without explanation, and without further examination, and without the closest analysis. That would be saying more than any one could assert, after this long chain of circumstances has been presented. If it did not have such a tendency, the Grand Inquest would have found no indictment, and we should have had no trial. It is because it has such a tendency that it is here. And it is for you to say that this tendency is such as to produce *irresistible* conviction upon your minds. If it does not, the prisoner is entitled to an acquittal.

On the other side, we have undertaken to satisfy you, by proofs, that Dr. Geo. Parkman did leave this building, and was abroad in various parts of this city at a late hour that same day. Suppose, Gentlemen, that you shall be satisfied of this latter fact. Suppose that the evidence in the case shall convince you that Dr. Parkman separated himself from Dr. Webster, and went his way, where he would. In the absence of all evidence that these parties ever met again on earth, there is no proof that Dr. Parkman came to his death by the hand of Dr. Webster. Say, if you please, Gentlemen of the Jury, in this state of things, that the remains found on Friday, the 30th of November, are the remnants of the body of George Parkman. Say that there are proofs, conclusive proofs, for the purpose of this argument, that he was slain by violence. Say, Gentlemen, further, if you please, that we cannot tell, except by this connection with Dr. Webster, how all these things were brought about. What is the conclusion? Why, Gentlemen, simply this: that if these parties separated once, and there is no proof that they ever met again, there is behind it all one great, inexplicable mystery; — that, with all our efforts, — earnest, zealous, persevering, — these facts of human life have baffled human reason and human investigation; and that is all.

And so, Gentlemen, is the every-day experience of life. It has been said that realities are stranger than fiction. The imagination cannot keep pace with the extraordinary events of life; and there are mysteries in the order of Providence, and in the course of human life, which human reason cannot fathom — which lie deeper and lower than the human mind can sound.

Then, Gentlemen of the Jury, if these parties separated — although it may be that the remains of Dr. George Parkman were found lying in dishonor under the foundations of the Medical College — if these parties separated, then there is no proof; none that touches, or can touch, the life of the prisoner at the bar; none that can connect him with the sad events which transpired on, or immediately after, the 23d of November.

And how, Gentlemen, does the proof stand? Did they separate, or did they not?

We have called, Gentlemen, several witnesses of respectability — inhabitants of this community — to testify to you upon this subject.

See the condition in which Dr. Webster has been placed in reference to the discovery of these witnesses! — Alone in his cell, with no great, opulent family around him, of large connections, to aid and assist him — with a wife, and the three daughters whom you have seen upon this stand, occupying his mansion in a neighboring city — these witnesses have sprung up, as it were, by their casual recollections; and we have been enabled to discover these proofs, and bring them to your attention.

Gentlemen, the number of witnesses is not large; but, contrasting it, even in this aspect, with the number of witnesses whom the Government, with all their search, with the aid of the municipal government here — its police officers searching night and day, their agents employed tracking Dr. Parkman's footsteps — compare the number of witnesses we have brought here, who have seen Dr. Parkman in the afternoon, with the number whom the Government brought here, who saw him in the morning, when he was engaged in his ordinary pursuits — and, even in that light, our proof does not stand in a disadvantageous position, in comparison with that of the Government.

We have presented to you the testimony of Mr. Thompson, Mr. Wentworth, Mr. Cleland, and Mrs. and Miss Rhodes. We have called also before us Mrs. Hatch. I shall not, at this moment, dwell upon the testimony of Mrs. Hatch. She testifies — to speak simply of her testimony — that, at a quarter before two o'clock, on Friday, the 23d of November, she saw Dr. Parkman in Cambridge-street, going toward Court-street. At ten minutes before two, according to the Government's testimony — that is, five minutes after he was seen by Mrs. Hatch — he was seen going to the Medical College; and that he turned from Cambridge-street into one of the streets leading to the Medical College, furnishes the explanation that the Government may give to this. Of this testimony I shall have occasion to speak hereafter, in a connection of the highest importance, most pregnant of suggestions, and worthy, as I think evidently will be found, of the highest moment and consideration.

But, passing from her testimony to the testimony of others, Mr. Thompson says that he came in from Cambridge that afternoon, and that about twenty minutes after two o'clock, at an hour confessedly much after Dr. Parkman entered the Medical College, he met Dr. Parkman in Causeway-street. He knew him very well. He had seen him many times before. He had known him ten years. For the last five years, as a clerk in the Registry of Deeds, in East Cambridge, he had had occasion often to see Dr. Parkman; and knew him, I suppose, vastly better than I know any one of you. He knew him perfectly well, as he says. He asserts that he passed Dr. Parkman, that he recognized him, and passed his way; that he transacted his business, and returned home. If this is true, these parties did separate. Why is it not true?

I did not know, from the cross-examination, but that an attempt would be made to show that this witness had given, at another time, a different account — said something which would be calculated to create a distrust of the accuracy of the statement which he has given here — that he had made a different statement somewhere else. And when the Attorney General cross-examined that witness from a paper subscribed to by that witness, I did not know but what you thought

that the paper did not conform to his testimony here. The witness stated how that was. Mr. Andrews came to him, and said that —

Mr. Clifford. The witness had previously said nothing about the meeting of Dr. Parkman, but spoke only of the meeting of Dr. Webster.

Judge Merrick. It was in reference to another part of the case upon which the cross-examination bore. Mr. Andrews asked him to write down the testimony in the rough. He did so; and the paper is not produced. And we may fairly infer from this, that there is nothing in the paper which could conflict with the credibility of this witness. He stands in this position: He is the clerk in the Registry of Deeds' office, at East Cambridge. He has been employed there many years. He was fully acquainted with Dr. Parkman, and he swears to you that he met him at twenty minutes past two o'clock.

I do not suppose that this witness is to be discredited upon a part of the ground of the cross-examination. This biological state, of which he speaks, is nothing. We all know that many individuals have their belief, which seems strange, and fantastical, and groundless, but which they, in the utmost sincerity, adopt for themselves. Yet, because they adopt these strange beliefs of theory, we cannot say that they are not sincere. More frequently they are the most sincere, and they adopt them on this very account. They adopt them, not to make themselves agreeable by falling in with the common tone of society; but they adopt them from conviction, because they believe them to be true. And whether the world says *yea* or *nay*, in all truth and integrity, they feel bound to adopt and promulgate them. This is the position of this witness. There is no attempt to impeach him. They have attempted to disparage his visual organs, and he swears they are good; and he also swears that he saw Dr. Parkman in Causeway-street at a time which is incompatible with the proposition upon which the Government rest this prosecution.

Mr. Wentworth, a witness probably well known in this community — a man whose personal appearance upon the stand certainly entitles him to a favorable consideration — testifies, that in the afternoon of the Friday of the disappearance, between the hours of half after two and half after three, he met Dr. Parkman in Court-street. The witness was walking with Mr. I. H. Russell. He saw Dr. Parkman approaching, and, at the point of meeting, he crossed from the right hand side to the left hand side of the street; and, as he crossed over, he saw Dr. Parkman was coming; that Dr. Parkman turned round, placing his hand under his coat; and he mentioned it, at the time, to Mr. Russell. He says he went to his dinner, came back, and waited there till his young man — who went at two o'clock — returned; and that he thence went to the market, to purchase his provisions for the succeeding day; and that he knows that he did it upon that day; and that he knows that he did not do it at any other time. And he fixes it by saying that on Saturday his business required him to be at his store at a later hour than on any other day. He was informed by his wife that two men came to his house to inquire for Dr. Parkman, who was missing; and he immediately said to his wife, "I do not think Dr. Parkman can be far off, for I saw him yesterday afternoon." Now, Gentlemen, if this is true, here is evidence inconsistent with the theory of the Government.

The only circumstance which has been interposed here, to affect the testimony of Mr. Wentworth, is that Mr Russell has been called, this morning, and testifies that he has no recollection of that event — none at all. He remembers now, that at some time he was walking with Mr. Wentworth; that they met Dr. Parkman, and that Dr. Parkman was spoken of to him by Mr. Wentworth. But the time when it was *has faded from his recollection* to such an extraordinary extent, that he told you he could not say whether it was one day or three months before the disappearance of Dr. Parkman. It has faded entirely from his recollection. He remembers nothing at all about time when, or place where; but he remembers simply the fact that it did occur. He says, indeed, that if it had been on the occasion mentioned by Mr. Wentworth, he thinks when the disappearance of Dr. Parkman came to be spoken of, he should have recollected it. It may be so, or it may be not. We cannot explain the workings of our own minds.

I put it, Gentlemen of the Jury, to your experience. We are engaged in a vast number of occupations. We see a vast number of individuals. Crowds pass in the street. A casual observation is made. We speak to this friend and to that; and there being nothing to impress it upon our mind, no impression is made — no process of association can bring it back again.

And I put it to you, Gentlemen of the Jury. — You have been separated from your fellow-citizens many tedious days. Throw back your recollections to the day of your separation, and answer to your own consciences and your own understandings, individually, whether you can now account to yourselves, or to anybody else, all the persons whom you saw the day before you came, and the conversations that took place. The important transactions of that day are stamped upon your minds; but the unimportant, the transient ones, are gone, Gentlemen, with the air that you breathe. And so it is with Mr. Russell. The thing was of no consequence. It passed out of his mind; so utterly passed out of his mind, that time, place and circumstances, are gone, and all that he can bring back is, that, some time or other, something of this sort took place.

But Mr. Wentworth, on the other hand, an unimpeached, and I stand here to say an unimpeachable witness, — with a responsibility which touches this Government, a responsibility for which he is to answer here and hereafter, — stands here to say that he knows when it was; that he has always known it; that this fact did make an impression on his mind; that he found the trace of it, at the moment when he knew that Dr. George Parkman was lost; and that he not only recognized that trace then, but that he gave audible utterance of it at the time. Such, Gentlemen, is the testimony of Wentworth, and such the position he occupies.

We come, then, Gentlemen, to the testimony of Mr. Cleland, the witness from Chelsea, a man of intelligence; and one would think, from the account he gave of the pursuit in which he was engaged on the afternoon of the 23d of November, connected, as he is, with valuable institutions, and a man of standing and substance in the community, that he would be a witness entitled to your most implicit confidence.

Mr. Cleland tells you, Gentlemen, that on the morning of that

day, he, as a member of a religious society in Chelsea, as an agent acting in its behalf, was taking measures to secure the attendance of a clergyman upon the next Sabbath morning; that he wrote a note to one of his friends, and that that note was despatched, but returned to him unopened; that he had occasion to write another to one of his friends, to which he received an answer. The note returned was thrown into his desk, and those notes can now be produced. They are on the table, and can be presented to you the moment the Attorney-General is willing.

He knows this was Friday, from the business in which he was engaged, from the time in which he did that business, and from the notes which were written, — one of them by himself, and the other by a clergyman, a friend of his, — both of which notes he offers to produce, to fortify his recollection. He says that in the afternoon he had occasion to go to Franklin-street, to meet a clergyman; that he passed through Devonshire-street, Theatre-alley, into Franklin-street; saw his friend; had his communication with him; and then immediately passed into Washington-street: and in that street, between Franklin and Milk streets, at an hour which could not vary much from twenty minutes after three, he saw Dr. George Parkman coming towards him. He saw him under circumstances which particularly attracted his attention. He thought them a little peculiar. He knew the position which Dr. Parkman occupied in society; that he was a man of affluence and wealth. He saw him walking with a laboring man, in his common and ordinary dress. In consequence, he watched him. He discovered that they separated, and that Dr. Parkman was not walking with this individual, as he thought he was. He kept his eye upon him, and they pass side by side. He saw him at a distance of four or five rods, and saw him when they met and passed each other.

About the time there can be no question. About the place there can be no question. It was Friday, the 23d of November, twenty minutes after three, in Washington-street, between Franklin and Milk streets. Was it Dr. Parkman? Mr. Cleland knows him as well as you know his Honor on the bench. He had known him for years. His attention was particularly attracted towards him. It was fixed in his mind. And when he came to know of the disappearance of Dr. Parkman, he communicated it to the Government, and was told that it was of no consequence to inform the police of it, because Dr. Parkman had been seen on Washington-street, at the South End, afterwards. Here is a gentleman, beyond all doubt and suspicion, who tells you that he saw Dr. Parkman at this hour.

Then, Gentlemen, there is the testimony of Mrs. Rhodes and her daughter. They say that on that afternoon they visited this part of the city. They came from the westerly part of the city, where they reside, to do some shopping for the family. Among other places, they went to Hovey & Co.'s store, in Winter-street, and there purchased a dress. The number of yards and price were given; and going to Mr. Hovey's, it is found that on that day there was sold this article, precisely at this price per yard, and precisely this price in the aggregate, and that there was no other such sale as that on that day!

I suppose that no one in his senses will question that this dress

was purchased, and that they went home. Mrs. Rhodes says that the bundle was carried by her daughter; and the daughter says that she carried the bundle, and as she passed Dr. Parkman, she shifted the bundle on to the other arm, in order to avoid striking him with it. I suppose there is no doubt but that they passed an individual whom they say was Dr. Parkman. Mrs. Rhodes says that she was acquainted with Dr. Parkman, and had been for many years. She was a member of Dr. Francis Parkman's church, and knew the brother in the pulpit and the brother in the world — the one as well as the other. She says that this acquaintance between them was such that they always bowed to each other as they passed; and, as she came up to this gentleman, that she did bow to him, and that he recognized her, and returned the bow. The daughter says that she noticed what took place; saw Dr. Parkman; knew who it was; saw him bow to her mother, and saw her mother bow to him. It was Dr. Parkman. They both tell you so, upon all the responsibility which can rest upon any individual in society. They have much at stake. They know perfectly well the importance and the materiality of this testimony of theirs. They know, Gentlemen, that it contravenes the hypothesis of the Government. They know that it comes in opposition to views now taken, and now held, not only by the Government, but by the family and friends of Dr. Parkman; and Mrs. Rhodes, a woman of unblemished reputation, and unsuspected character, knowing full well how this thing is held out to the family, how her friends think in relation to this matter, that she is laboring under a mistake, has dwelt upon it with all hope and all desire to come to the truth; and she asserts, that she must now say, let the consequences be what they may, that this man whom she met at that time was Dr. George Parkman. Do you know that it was not?

Another witness, Mrs. Greenough, says, that on the same day, ten minutes before three o'clock, she met, as she believes, Dr. Parkman, in Cambridge-street. She is a woman of much respectability, as I venture to say any of you will admit. She had occasion to come into the city on an engagement of a social character. She had occasion to see her son, who left his home at three o'clock. She says, that, as she was coming through Cambridge-street, making no particular observation, she saw her old acquaintance, Dr. Parkman, on the other side of the street. She recognized him, passed on, and looked at the Lynde-street church. She fixes the hour, and the time and place. She does not state as strongly as the other witnesses that the person she saw was Dr. Parkman; but she believed it then, and believes it now. She would not say, in dogmatical language, that it was not possible for her to be mistaken.

On the next day, her husband informed her that Dr. George Parkman was missing. She immediately said, "I saw Dr. George Parkman yesterday."

This, then, Gentlemen of the Jury, is the testimony upon which we rely to convince you that Dr. George Parkman did separate from Dr. Webster; that Dr. Parkman went from that College, and was abroad in various parts of the city. During the afternoon of that day, he was seen in different, and, to some extent, in distant parts of the city. He did not return to his family, and that is strange. He was never seen afterwards; and that is strange. Something intervened

that day that was very strange. Something occurred that day which we cannot understand, which we cannot reach or know. What that was, who can tell? Can you, upon the evidence which has been presented to you?

When his friends made first a comparatively slight and fruitless search, they gave notice to the world that they put their minds upon causes which might produce a strange effect. And it is neither uncharitable, nor unjust, nor unreasonable, to suggest to you now what upon the greatest deliberation was suggested by his friends then. We start no new theory; but we take up the theory of his friends, those who knew him best. They say, in the advertisement which they put forth to the community, that he might have strayed away, under the influence of some sudden aberration of mind. They thought that reasonable, or they would not have said it. They would not have put forth a suggestion of that sort under a reward of $3,000, without believing it. And yet they did it. We cannot tell whether it were so.

We know that responsible, unimpeachable men and women, with organs of vision capable of determining this question, did see this man abroad. Who can say that that is not true? The suggestion may be, that they are mistaken. They may be mistaken, but are you certain that they are mistaken; so certain, Gentlemen, that these men and women are mistaken, that you dare touch the heart's blood of this man who is upon trial?

Gentlemen, *contrast* this proof with some other that has been presented here. When the mangled remains of this human being, whosoever he was, were spread out on the floors or on the tables of this Medical College, and exposed to medical gentlemen and friends, they were asked to view, and see if they could find anything dissimilar to the frame of Dr. Parkman. And they bring the answer to that question here as a fact, from which you are to draw an inference. Yet, in the same moment that they are asking you to systematize the evidence which they present in regard to the want of dissimilarity in these remains, so that you can draw such a conclusion as that,—they are asking you to believe that responsible men and women are mistaken, not in the naked leg, but in the open face, the open, clear living peculiarities of the living man. What are we here for? What is your solemn duty? To weigh all the evidence;—not a part! Not to take up the system, the theory of the Government, and see whether the evidence of the Government will sustain that theory; not to see whether the evidence which they produce tends to establish that hypothesis. It may be that all the facts they maintain should exist, and yet that the prisoner at the bar should have had no hand in the atrocious perpetration of the murder, because they parted after the interview had taken place between them. I commend it, Gentlemen, to your sober consideration, that you have, upon this question, as solemn a responsibility as ever rested upon the consciences of human beings.

Gentlemen, I shall proceed to the examination of the testimony which the Government have brought to your consideration. And I mean, Gentlemen, to treat that testimony with all the fairness of which my mind is capable, in examining or in presenting it to you. I do not feel, Gentlemen of the Jury, as if I was here in strife or in

contest with you, or with any one. I do not feel, Gentlemen, as if I was here in strife or in contest with my friend, the Attorney General. We come here, not to contend for victory, but to learn the truth, to vindicate justice, to administer the law. And when I speak to you, I do it in the hope that I may aid you in the great duty, the solemn duty, which you have to perform. If I sometimes speak earnestly, from deep convictions, I know that you will not understand me as fearing or apprehending that I have anything to overcome, any resistance to be encountered, any opposition to contend with. No: you are my friends — the friends of the prisoner at the bar — as you are the friends of all men in the community of which you are brethren with them.

Let us look, Gentlemen, to the facts, in the order in which the Government are bound to prove them, and see how far their evidence, direct or circumstantial, tends to prove their case. The Government must prove the guilt of the defendant. I say they must prove it. The burden of proof is exclusively upon them. If they do not establish, beyond reasonable doubt, the several facts which they are bound to prove, they cannot claim nor ask for a verdict of conviction.

The law presumes that the prisoner at the bar is not guilty, unless it is forced upon the minds of the Jury, by a just consideration of the evidence brought against him. And it is upon these two great and leading presumptions of the law, that the defendant is innocent until his guilt is proved by the Government, and proved beyond reasonable doubt, that I approach towards the consideration of them.

They are, first, to establish the death of Dr. Parkman; secondly, to establish that his death was occasioned by the agency of the defendant. First — have they proved to your satisfaction that Dr. Parkman is dead? They have much evidence, certainly, tending to establish this fact. And I wish to state that evidence to you, with the single remark, that it is for you to pass upon, before you can proceed into the investigation of the other more material parts of the case.

Dr. Parkman entered the Medical College on Friday, the 23d of November; *and since that day he has not been seen.* To show that he is dead subsequent to that day, certain remains of a human body are found, and evidence has been given to you, in reference to those remains, tending to show the identity of that which has been found with that which was lost — tending to identify the dead with the living.

In the first place, Gentlemen, there were remains found in the vault beneath the privy, other parts in the tea-chest, and still other parts of a human body in the cinders of the furnace. Intelligent and most respectable gentlemen have been called here to testify with regard to each and all the parts of this body. Dr. Wyman, who has exhibited much skill, much science, much knowledge in his profession, has stated to you that the bones — the fragments of bones — which he finds, correspond with, or belong to, parts of a body which were not found in the tea-chest or vault. And he states that these fragments of bones constitute part of the head, neck, arms, hands, feet, and one leg below the knee; and that there was among these fragments nothing duplicated; no fragment which must necessarily have existed in two human bodies; no fragment which could have existed in any part of that found in the tea-chest and vault.

Now, upon this testimony, you are to consider; and I have no doubt of the result to which you will arrive. If all these fragments did constitute the parts of one human body, in different states and in different conditions, the inquiry then is, were those remains the body of Dr. Parkman, or not? And upon this point, certainly, you have strong proofs — perhaps entirely decisive; but of that you must judge.

You have the testimony of these same medical gentlemen, who say that the structure of Dr. Parkman was somewhat peculiar; that these remains, examined in the best way they could, corresponded in all particulars with the body of Dr. Parkman — in the form, the structure, the size, the height, the color of the hair, the growth upon the back; certainly very strong circumstances, tending to establish a probability that this was the body of Dr. Parkman. And this is done, perhaps, effectually, perhaps conclusively, by the testimony of Dr. Keep, the medical gentleman who had occasion to make the teeth of Dr. Parkman three years before, who had occasion often to examine them, who has compared the teeth with the model, to which it adapts itself. He declares that he cannot entertain a particle of doubt that they are the same; and these, connected with circumstances which tend to show that they were fused while in the mouth of Dr. Parkman. These circumstances are strong.

We have called your attention to the testimony of Dr. Morton, an eminent, and intelligent, and skilful dentist of this city, who has given to you clearly his views on the subject. Not that we call him to contradict Dr. Keep, but that you may understand this testimony which has been presented.

This has enabled the Government to bring in Drs. Harwood, Tucker, and Codman, who have confirmed the general statement of Dr. Keep; and I have only to say that this is a question upon which you are to pass.

If you are satisfied that this is the body of Dr. Parkman, that settles that point. If you are not satisfied, their case is gone.

What was the cause of the death? — and that is a thing which requires your particular attention. Have the Government satisfied you, beyond reasonable doubt, that Dr. Parkman died by violence? I shall not now, of course, call your attention to any part of the testimony of the Government by which they attempt to implicate Dr. Webster; but, taking the circumstances having a tendency to show that Dr. Parkman came to his death by violence separate from anything which implicates Dr. Webster, let us see whether it is certain, beyond reasonable doubt, that this body which was found came to death by violence.

I suppose the Government will rely upon two circumstances, which have been given in evidence, as tending to show this fact; which two circumstances are quite insufficient in justifying a Jury to come to such a conclusion. I refer to the supposed fracture of the skull, and to the perforation of the side. As to that portion of the bone presented by Dr. J. Wyman as having some tendency to show that there was a fracture, I have scarcely occasion to say more than to remind you that, in answer to an inquiry from the Chief Justice, Dr. Wyman said, that though there was an appearance that that fracture occurred before the bone was subjected to heat, yet there was nothing

which would enable him to determine whether it was before or after death. But with regard to the other question, even whether it was before or after calcination, Dr. Wyman was by no means certain that it was before it. If it had not gone so far in the calcination, then he might not have found the ragged suture, as it might have been caused by calcination.

Dr. Holmes, a young gentleman — [A voice, "Not young."] Dr. Holmes, a middle-aged, but very respectable and intelligent physician, who is old enough to have been one of the physicians in the Massachusetts General Hospital, and a Professor in the Medical College, tells you that, in his opinion, this fracture was not caused before calcination; and, when asked whether he would not defer to Dr. Wyman, he says, "Not in this particular, though I would cheerfully in others." In reference to this particular examination, he says that he has examined, and his own observation is as good as anybody's else. It is uncertain whether that fracture was before or after calcination, — whether it was before or after death, — and so it furnishes no guide to the Jury, in determining whether death was caused by this fracture or not.

Next, as to the perforation in the side. It appears, from the testimony of Mr. Eaton and Mr. Fuller, that this perforation was discovered almost immediately after the thorax was taken from the tea-chest. They noticed it. If they are right, it was so. I shall not stop to question their accuracy. It was there before. But, how? Was it a cut? Dr. Woodbridge Strong testifies that it was a clean cut, made with a knife; and, in his judgment, it must have been made with a knife. On the other hand, you have the opinion of three intelligent and scientific gentlemen, called upon to make the examination of the body — Drs. Lewis, Stone, and Gay; and who made the examination with care and precision, writing down their testimony at the time, preparing to testify before the Coroner's Jury — an examination made at the moment when all inquiry was of the utmost importance — when every circumstance was sought for as a momentous matter, in ascertaining the truth in relation to this great and overwhelming calamity which had come upon the community. They tell you, one and all, that there was no knife-cut there; that it was a ragged opening; that there were no indications upon the side, external or internal, that it was a clean cut, made before or after death. Now here is a disagreement between these medical gentlemen. What are you to do? Do you know how the fact is? If you do, you can act upon your own judgment. If you do not know, but are trying this cause upon the evidence, then you have the testimony of three witnesses, that, whenever or however that hole was made, it was not made by a sharp instrument. If that is a fact, then the Government are destitute of evidence to show that Dr. Parkman, if this was his body, came to his death by a blow upon his head or a stab upon his side.

How did he come to his death? Remember, it is not for the prisoner at the bar to explain how these were dead remains, but the Government are to show you that a living man was killed. How was he killed? Was he killed at all? Do you find upon the person wounds, blows, and evidences of destruction, sufficient to take human life? To take a man's head off, kills him. To take his breast-bone out, and separate all the internal parts of the body, kills him; to cut off his arms and his thighs, kills him; to put his head in the fire and

burn it to cinders, kills him. Was Dr. Parkman killed in any of these ways? Do you think he was burnt to death? Was his limb placed in the fire — that limb of which you found fragments — was that put in the fire till the fire scorched him to death? Was his head placed so as to be burnt alive? Nobody believes it. Do you believe that he was killed by having these two legs cut off? that he was laid upon the floor, or upon an anatomist's table, and held there until his legs were chopped off? Nobody believes that. Or, was he held there until his arms were chopped off, and all his limbs severed? Nobody believes that. That is to say, that, though you find this body mutilated — distressingly mutilated — yet nobody believes that this mutilation was the cause of death.

What, then, was the cause of death? After all the investigation which has been made, this matter is as dark as it was before light went into the cavern underneath the Medical College. How the man — ay, the victim, call him which you will — how he died, no man knows.

Then, Gentlemen of the Jury, are the Government to ask you to say that this was a death by violence, when they cannot say how it took place. When the charge shows that they don't know, can they ask you to draw the inference that he must have been slain? Can they ask you to draw the inference from the fact, that he was alive on the 23d of November, and that, on the 30th, his mangled remains were found, that it is an inevitable consequence that he must have been slain?

Take the case which is ordinarily put of presumptive evidence, and see how widely it differs. A man is seen running from a house, with a bloody sword in his hand. The spectators immediately pass into the house, and find a bleeding body, convincing them that there has been sudden death. Upon examining him, a wound is found upon his side, which corresponds with the sword. The inference is unavoidable, that the man has died in consequence of the flowing blood. He is suddenly found dead.

But here, the disappearance was on the 23d; the discovery of the body on the 30th, seven days afterwards; and there is nothing found but what might have been inflicted after death. How, then, is it certain beyond reasonable doubt, so that it is safe to say, There has been murder here — that this body was brought to its death by crime and violence? Gentlemen, death visits the human family in ten thousand forms. Sometimes its approaches are lingering and slow; sometimes it takes us suddenly by the hand, and relieves us at once of life.

Can you say certainly — have you this evidence — that, because seven days after the disappearance of Dr. Parkman, his mangled remains were found in this College, that he did not die a natural death, which might have reached him, as it often reaches the rest of the human family, suddenly and unawares? — that, in some strange way, which you cannot see, because of the thick darkness in which all human life is shrouded — because you cannot see how it is done, you will leap through the thick fog, and by circumstances almost irrelevant conclude — I mean imperfectly conclude — that death came in the form of violence applied to him?

Gentlemen, you will take care, in forming your judgments upon this matter, if one man has gone — if that man was our friend; if he

was most respected in the community; if his loss has left a deep chasm in society; if his absence has touched many hearts, and he be mourned over by many friends — still, you are to remember that, before you affect the rights, the liberty, and the life of one of your fellow-beings, you must be *sure* that the great fact of death by violence was established.

Lord Hale said, in reference to circumstantial evidence, that he "would never advise a conviction upon circumstantial proofs, unless, at least, the body had been found."

Gentlemen, the writers upon law, the expositors of the law, upon the bench and in the books, have declared that this same caution is equally applicable to the means of death as to the discovery of the body. When the body has been found, and can be identified, the first care should be, to see that the proof is clear that that body ceased to live by violence applied. And if it cannot be shown, by direct or by indirect circumstances, that the body came to its death by the agency of another, though strong suspicions may exist, and the greatest of jealousies may fill the minds of men, still there is a want of that perfect judicial proof, upon which men — conscientious men, acting in the discharge of their duty — are bound to proceed.

It is so here, Gentlemen. I do not undertake to say to you that Dr. Webster can, or that his Counsel can — supposing these remains to have been those of Dr. Parkman — explain how he came to his death. We do not pretend to do any such thing. But, Gentlemen, we do pretend to say that the Government must prove this fact — *an essential fact in the case.* And when we say that these marks might have been inflicted long after death, and that there is no evidence that they were inflicted before death — when death comes in a thousand forms: when he might have fallen by the way-side; when some robber may have seized the body, and, having plundered it, then, in the midst of an excited community, searching everywhere, fearful of discovery, have thought to have taken these remains, and placed them there — can you say that such was not the case? or can you say that these circumstances impel you irresistibly to the conclusion, that George Parkman came to his death by the agency of another person?

I submit it, Gentlemen, to your calm inquiry; and if the evidence on the part of the Government, upon this subject, comes only to create a strong probability, but does not come up to the clear fact, beyond reasonable doubt, that this body was slain, there is an end of this trial.

But, Gentlemen of the Jury, suppose that you pass these questions by; that you come to the conclusion that this was the body of George Parkman, and that his death was caused by the violent agency of another person; what was the crime which was committed in taking his life? I shall here, necessarily, Gentlemen, be obliged to anticipate; but I ask you carefully to discriminate.

I am going to attempt to show you, upon the circumstances which have been developed upon this trial — taking all the Government's case, and making the worst of it for the prisoner, in their behalf — that the crime which was committed, if it was committed by Dr. Webster, was not murder, but manslaughter, because the circumstances warrant the conclusion that it was the lesser crime. Do not misunderstand me.

As the Counsel of Dr. Webster, — called in here to protect him in this hour of peril, when his life is at stake, — his Counsel do not feel at liberty to stand exclusively upon the ground upon which he stands. He denies that he took the life of Dr. Parkman. But, Gentlemen, his Counsel cannot know what effect the evidence which the Government have presented upon that question may produce upon your minds. And, therefore, if it should come to that, that you should arrive at such a conclusion as that Dr. Webster did the deed, then, Gentlemen of the Jury, we must ask you to say, What was it that the prisoner did? what law did he violate? what crime did he commit? I contend that it was manslaughter, if it was committed at all.

Gentlemen of the Jury, the law upon the subject of murder and manslaughter was stated to you, in the clearest and most distinct manner, by the Counsel with whom I have the pleasure to be associated. The distinction is simply this: Homicide with or without malice. And we contend that the evidence in the case will warrant the Jury in coming to the conclusion, that, if there was a homicide here, that if Dr. Parkman came to his death by the hands of Dr. Webster, it was under circumstances of such extenuation as reduces the offence from murder to manslaughter. You understand, that if a homicide be committed, it is murder, unless there is extenuation; that is to say, unless it was done with sudden combat, or with justifiable provocation.

The question, then, is, if a homicide occurred, if Dr. Webster was the cause of the death of Dr. Parkman, did it occur under such extenuating circumstances as will reduce the crime from murder to manslaughter? Now, Gentlemen, you will receive the direction of the Court as to what is necessary for the Government to do in order to establish the fact of malice aforethought. Without malice, the crime of murder could not have been committed, in a homicide. I do not understand the case of York precisely as it was understood by the Attorney General, though I do not know as the difference is material. I understand the case of York to have the same bearing as the case of Sir Michael Foster; that, the fact of the murder being first proved, all the circumstances of extenuation, which are to reduce from murder to manslaughter, are to be established, or it is murder. The opinion put forth in the case of York, as it was applicable to that case, was on the question, whether it was voluntary or not. I do not understand that it made a difference whether it was done in secret or not; this reference to secret murder being argued by the Magistrate.

Chief Justice Shaw. The proposition that was affirmed there is universally applied. It was, that the fact of homicide — voluntary killing by design, or by the use of a deadly weapon — having been first proved, the circumstances of justification in self-defence, or in whatever other way it may be instigated, must either be established by proof, or arise out of all the circumstances of the case.

Judge Merrick. That is as I understood the case, and as I had supposed the law of the case would be stated to the Court.

Chief-Justice Shaw. The evidence on both sides is to be taken into consideration, and the instigating facts may arise out of all the circumstances of the case.

Judge Merrick. That is all material to this case. Gentlemen of

the Jury, upon this question, whether the homicide was murder or manslaughter, if you are satisfied that Dr. Parkman came to his death by the hand of the defendant, and that he killed him by design, then the law implies malice, or malice aforethought accompanies the act of killing by design — the use of a deadly weapon indicating design or purpose to accomplish that object.

But, in determining this question, the Jury are to look at all the evidence in the case, and see under what circumstances the homicide must have been committed; and if, upon the consideration of all those circumstances, it shall appear to the Jury, by a fair and proper inference from all of them, that the homicide was not by design, but was committed under extenuating circumstances of provocation, or sudden combat between the parties, then the crime committed was manslaughter, and not murder.

I suppose, Gentlemen of the Jury, that the Government mean to put to the Jury that there is evidence, in this case, of express malice. It was so stated by the Attorney General, in the opening of the case. I understand what that express malice is understood to consist in. And, therefore, before I go to the circumstances of the case, I would call your attention to the other circumstances, which go to establish the fact that there was malice prepense; that is, that this crime was premeditated — that he designed to kill Dr. Parkman, before he went into the College. That is the broad statement of the Government: that Dr. Webster planned this homicide; that he devised the means; that he seduced him to the College by false pretences. The ground upon which this conclusion is based is this: Dr. Webster states, that on Friday, the 23d, Dr. Parkman met him by appointment. The appointment was to accomplish a particular piece of business, namely, that Dr. Parkman should bring to his place certain papers and notes, and that he should receive there certain money, and cancel those papers. Prof. Webster says that, following this appointment, the interview took place, and the business transaction occurred; that Dr. Parkman came there, bringing with him all, or a part, of the papers; that the business was transacted between them, and that they separated. The Government deny this. They say that this business transaction did not take place; that Dr. Webster did not pay Dr. Parkman this money. And they ask you, Gentlemen, to believe and to conclude that he did not pay it, because he had not the means of paying it. And then they ask you to conclude, that, as he had not the means, and did not pay it, that this appointment was the means by which he intended to induce Dr. Parkman to come to the College.

It becomes, then, necessary to allude to the evidence of the Government, in relation to this matter. They have called several witnesses. They have called Mr. Pettee, who sold Dr. Webster's tickets to the medical course of lectures; and they have shown how the money was paid by Pettee to Webster: then they have shown evidence, from the deposits in the Charles River Bank, that deposits to an equivalent amount followed the payments of Pettee for the tickets. Then they have shown either what become of those deposits before Dr. Webster was arrested, or since; and they attempted to show, in that way, that all the funds which Dr. Webster derived from the students were used in such a manner that he had none of them to pay Dr. Parkman with. The evidence seems so satisfactory, that I shall not attempt

to contest it at all. I suppose it is so. Not only do I suppose it is so, but I am fully authorized to concede it was so. That was not the money paid to Dr. Parkman.

Then the Government have called certain other witnesses: Mr. Henchman, who testifies that, on the morning of this day, the 23d of November, Dr. Webster presented him a check, drawn on that day, or the day before, for ten dollars, which Mr. Henchman cashed for him. He had funds in the bank, and the money might have been paid; and if the check had been sent over at that time, it would have been paid. There is no doubt of that fact — that Dr. Webster wanted this small sum of money for his temporary use. He was in the habit of depositing, for his daily use, in the Charles River Bank; and as he wished to use the money he drew it out. And, accordingly, you will find that, in almost all the instances, the money was drawn out in small checks.

Then they have called Mr. Smith, to show that Dr. Webster was unable to pay, or unprepared to pay, a small bill to him; and that Dr. Webster wrote back to him, saying that that bill should be paid when the money came in from the sale of his chemical lecture tickets. That is true. You perceive that that debt, like that of Henchman, was unpaid, on account of his daily expenses. That was to be paid from the chemical lecture fund.

We conceive that Dr. Webster wanted money for his daily expenses; and that he drew it from the source from which he was accustomed to draw all his money, and that he did not wish to appropriate this money to other uses.

Now, as to this money paid Dr. Parkman, I am free to say to you that we have not offered proof to show where it came from. And this we cannot do. Yet, the circumstances of the case are such as do not show that Dr. Webster had malice in his heart to contrive the perpetration of this most atrocious crime, for the want of this money. Gentlemen, you know now, as well as Dr. Webster knew then, that he was a debtor, and that Dr. Parkman was his creditor. You know now that Dr. Parkman had made up his mind, resolutely, in reference to his debtor, and that Dr. Webster knew it too. You know that Dr. Webster knew that there had been transactions between himself and another party, which, unexplained, thrown out to the community, would touch to the core the reputation of a man standing in the position in which he did. You know that, in the exigency of the time, he had mortgaged his property to George Parkman; that consisted in part of his minerals. You know that, subsequent to that, in his exigency, he had afterwards raised $1200 by a bill of sale of those minerals, which had exasperated Dr. Parkman, but which Dr. Webster vindicated by a long letter to Mr. Shaw, which, unhappily, is not here. Dr. Webster knew that the time was coming, and that speedily too, when he must answer to Dr. George Parkman. He knew that the time was coming when he could no longer ask for delay or forbearance, but must be prepared to meet the claim — I will not call it inexorable, but the earnest claim — which Dr. Parkman must make against him. He must be prepared for that great day; for it is a great day with a man in Dr. Webster's situation, — with a man with a large family, with expensive habits, and an expensive condition in life. When such a man is called upon to

pay a considerable sum of money, he is obliged to strain himself on that side and on this side, and to gather in a fifty dollar bill here, and a twenty dollar bill there. And it was in this way that this money for Dr. Parkman was hoarded together, little by little, gathering it where he could, and collecting it where he could; knowing that the time was coming when he could not put off the day.

If you will examine the books, you will find, that of $195 paid at one time by Mr. Pettee to Dr. Webster, $150 were deposited in the Charles River Bank. All the other sums which he received from Mr. Pettee were deposited in the bank. But, of this $195, $45 were saved out, and made up, Gentlemen, with the previous savings, the means of meeting the claims of Dr. Parkman.

In the mean time, he was subject to calls from other quarters; and though he might, at somewhat of an earlier day, have made payment to Dr. Parkman, yet, from the relation in which they were placed to each other, he was not over willing to gratify the immediate demands of Dr. Parkman, but was willing to put him off as long as he could. There was no friendly relation between them. All he meant to do was to put himself in a situation, when the time did come, and Dr. Parkman came with a pressure that he could no longer resist, that then he could meet him, pay him, and be rid of him. And that, Gentlemen, is the history, as far as I can detail it to you, of the circumstances in this case.

There are corroborating circumstances, Gentlemen. Understand me, that this is not gathered from imagination. Do not say that Dr. Webster, to some extent, at least, is not fortified by the facts in the case. Let us see if we cannot find such facts. Remember two circumstances: Dr. Webster says that he paid $483. Of that money so paid, $100 was in a bill of the New England Bank. Another circumstance in this connection: Brown, the toll-man, says, that on Friday he saw Dr. Webster passing the Cambridge Bridge, and asked him what he paid Dr. Parkman. He replied he could not tell: some large and some small amounts; some of which came from the students in the medical course.

Mr. Clifford. The testimony is somewhat different—

Judge Merrick. I am much obliged to you for the correction.

Mr. Clifford. Samuel N. Brown, the toll-gatherer, details the conversation which he had on Friday with Dr. Webster.

Judge Merrick. I will read it. After speaking of the $20 bill, he says that "Dr. Webster and I were talking together. I asked him if he could recognize that $20 bill. He said he could not; that the money he paid Dr. Parkman was that received from the students, some of large and some of small denominations."

Mr. Clifford. I have it—"The money he paid Dr. Parkman was money he had received from the students, some of large and some of small denominations."

Chief Justice Shaw (*reads.*) "I asked Dr. Webster if he could recognize that $20 bill. He said he could not; that the money was money he had received from the students, some of large and some of small denominations."

Mr. Clifford. Precisely as I have it!

Judge Merrick. I do not perceive any essential difference between us.

Mr. Clifford. It implies that all the money was received from the students.

Judge Merrick. The idea that I take is that no such idea was intended to be conveyed. The toll-man asked if Dr. Webster could recognize that $20 bill; said that an Irishman had offered a $20 bill, to pay a one cent toll; that he thought it rather strange that an Irishman should have that money, and pay it for toll. And, suspecting he might have got it from Dr. Parkman, he went to ask Dr. Webster about the bills that he had paid to Dr. Parkman. He had been at the College, and spoke of this as he was passing back to Cambridge. The toll-man said, that he understood that the money came from the students. But the idea intended to have been conveyed to the mind was, not that every dollar was derived from the students, but that portions of it were. This is apparent from the fact that he had received a considerable portion at a much earlier date. A considerable portion of the money received was distributed at once: $230 were paid to Dr. Bigelow: $195 were received afterwards; and $150, the next day, were deposited, as the records, the testimony of Pettee, and the bank books, show. And, therefore, it is perfectly obvious, that the idea Dr. Webster meant to convey to Mr. Brown, the toll-man, was, that he could not tell, because he could not recognize the various bills that were paid, as the money came without defining the precise source. I suppose that the toll-man was the last man to whom he would tell his particular affairs.

But some of the money came from the students; on which there are two suggestions to be made.

The first suggestion is, of the saving of $45 from the $195. Second, that there was paid, according to the statement which he early made, the note of $100 from the New England Bank. Mr. Pettee went to the New England Bank to get his money. He can't swear that he was paid, or that he paid Dr. Webster, in money of the New England Bank. But your personal acquaintance with such matters shows, the experience of everybody shows, that they do not pay anything but their own bills from banks. He laid this money aside, and paid it to Dr. Parkman. He had saved the rest of the money, but with the exception of the $100 bill, he could not identify what he had paid. He could not determine whether that $20 bill was one which he ever had before.

Mr. Clifford. I do not understand what this deposit is.

Judge Merrick. I suppose that he took this $100, which he had received from Mr. Pettee, and kept it, and deposited other money in the Charles River Bank.

Mr. Clifford. He reserved only $40.

Judge Merrick. I don't say he did any more from the tickets. I wish to fortify these presumptions. I wish I could go to the persons from whom he received this money. Suppose that Dr. Webster had apprized his Counsel, "Why, I received such a sum of money here, and such a sum there," — a careless man in his money matters, — and that "twenty, forty, or an hundred dollars, in another place, were received;" and it should be proved not to be so — that there was a mistake about it. How hazardous a case it would be for him! Then it comes back to this course of daily savings. It appears that his situation was such as to require him to do it; that

he had means, and that it might have been done. He says it was. You see Dr. Parkman was his creditor, and his pressing creditor. The time of the lectures had come, and at that moment he must preserve his place. Dr. Parkman had him in his power. He prepared himself for the time; he availed himself of all practical means to come to it. Then see if Dr. Webster is, or is not, corroborated in his statements on this subject.

The Government Counsel apprized us, after all the evidence was in, that he should claim not only that there was this money due to Dr. Parkman that Dr. Webster says he paid, but that the large note comprehended debts which were due to other parties, amounting to $512.

Gentlemen, there is no other evidence in the case upon that subject from which the Attorney General can argue — nothing but the notes and the papers in the case. These notes and papers are, then, to be taken into consideration, to see whether this is so or not. Now the mere fact that Dr. Webster is found in possession of these papers would, *under ordinary circumstances*, create a presumption in his favor, that he was fairly, and honestly, and justly, entitled to them. And as the law presumes that he is innocent until he is proved guilty, therefore this presumption exists in his favor until the Government establishes the contrary fact.

Now, Dr. Webster does not pretend, and he never pretended, that he met Dr. Parkman in order to pay anything else than the small note. Now, Gentlemen, if you will look upon that small note, and see how the $483.64 is made up, you will find that it is made up by computing the interest which is due to Dr. Parkman, not to the date of payment, but to a day considerably ahead; that is to say, apparently Dr. Webster paid Dr. Parkman more than was due. How comes that? Simply that these parties understood each other, and there was some doubt about how much was due; and then there was a proposition, as Dr. Webster said to some witnesses, that when Dr. Parkman came and said, "There is so much due," — "Yes," he replied, "that is what we agreed upon;" that is to say, they had fallen into some difficulty about it, and then had finally agreed on that amount.

Mr. Clifford. It is so stated in the memorandum, in Webster's pocket-book, and not elsewhere.

Judge Merrick. I will look at my minutes soon. Then, Gentlemen, you have another circumstance. It is stated, by every one who speaks of the conversation of Dr. Webster in relation to that individual, that Dr. Webster spoke of the mortgage. He did speak of the mortgage. He says that after the money was paid — that is, the notes were cancelled —something was said in relation to the mortgage. it was rather an imperfect statement, but the amount of it was this: that Dr. Parkman said he would take care of the cancelling of the mortgage. Accordingly, you perceive that Dr. Webster did, on the next day, not only believe that the mortgage was to be cancelled, but, in point of fact, went to the city office to see if it was so. This is important, because, if you can find a basis of truth in that statement which is made by Dr. Webster at that time, it will enable you to complete the parts; just as Dr. Wyman found, from the fragments of bones which he collected, sufficient indications to determine to

what parts they belonged, and to assist in reconstructing the entire skeleton.

Dr. Webster says that Dr. Parkman would see to it. You do not find the mortgage in the possession of Dr. Webster, but it has been produced here, from the papers of Dr. Parkman, by the Government. Now I think, Gentlemen, that this is a strong corroborating circumstance. Look at the whole series of these business transactions. It appears that Dr. Webster was the debtor, that Dr. Parkman was the creditor; that Dr. Parkman meant to have his debt paid, at all events, and that the note must be met. Then, as to a portion of his money, you find that Dr. Webster did receive money from the New England Bank, which would correspond, in part, with the money paid; some portion of the money received from the tickets was not deposited. You find that the business transaction took place; that Dr. Parkman went down there with the expectation that something would be done. He did carry his papers with him. That took place between the parties, at that time, which resulted in this, that Dr. Webster got possession of the notes, and Dr. Parkman kept the mortgage.

Now, I put it to you, that, in this state of facts, although this is not clearly proved, yet, that the explanations are sufficient to refute this assumption taken by the Government. This inference from his want of means, from the idea that Dr. Webster had not any money, and so seduced Dr. Parkman, by false pretences, to come to his place, is totally groundless. These are all the considerations that I have to present upon this subject, and I ask you to consider them. I do not say that the argument on this part is perfect; but it is for you carefully to discriminate, and to secure the truth. And consider whether it is not ample to repel that suspicion of the Government, that it must have been that Dr. Webster had not any funds, and so premeditated this awful crime. I put it to you, whether it is not more reasonable, that this outline of this condition in which Dr. Webster was is true, than that a man of his standing in life should have set down deliberately the way of blood; and yet to one or the other of these conclusions you must come. And you must come to the latter conclusion, or you cannot sustain this hypothesis of the Government, that there was malice aforethought, express, because Dr. Webster had not the means of making the pecuniary payment. I beg you to weigh it well, for on it are the issues of life and death.

AFTERNOON.

[Mr. Merrick resumed his argument, and continued as follows:—]

I wish now, Gentlemen of the Jury, to call your attention to those circumstances which tend to show the character of the transaction, upon the supposition — with the idea, or hypothesis — that the death of Dr. Parkman was caused by the prisoner at the bar, at the time of the interview between them, at the Medical College, November 23d. And here you perceive, Gentlemen of the Jury, that we are under the necessity of relying exclusively upon the circumstances. If Dr. Parkman died under the hands of Dr. Webster upon that occasion, no human voice can relate to you the circumstances, except the voice of the prisoner himself; no direct testimony can come to you. Still, you are judges of the fact. And, in this instance, as in everything

else in this case, you are to weigh circumstances, and deduce from circumstances the inferences which are the just and proper conclusions from the fact. Now, Gentlemen, I contend that the circumstances which must have accompanied that scene of death, if death there were, must have been such as to have extenuated the offence committed, from the crime of murder to the crime of manslaughter.

What was the relation of these parties to one another, the circumstances under which they met, and from which they never separated, according to the Government, both alive? You have heard of the relation between these parties, of debtor and creditor. You know that, for a long period of time, Dr. Webster had been indebted to Dr. Parkman. You know that Dr. Parkman became exasperated, to some extent, against him, in consequence of the acts on the part of Dr. Webster which Dr. Parkman denounced as unjust and dishonest. And, under that imputation of injustice and dishonesty, you know, from the evidence given, that Dr. Parkman meant to pursue, and did pursue him. I speak in terms well measured. So early as the first conversation which he had with his brother-in-law, Mr. Shaw, the feelings of Dr. Parkman were much excited against the prisoner. And I believe that, from that hour to the last hour when he was known to be in existence, that feeling never was removed, but became increased. You have the testimony of Mr. Pettee, with whom Dr. Parkman held several interviews. He in vain endeavored to realize the money that was coming to Dr. Webster from his annual course of lectures. He was disappointed and chagrined. He had said to Mr. Shaw that he would have this money, and Mr. Shaw had endeavored to calm his mind. Both these gentlemen occupy a relation, in respect to pecuniary means, well understood by the community. It was not the amount due from Dr. Webster to Dr. Parkman which made the money a matter of interest or of importance. A loss of that amount would never have been felt by Dr. Parkman; and undoubtedly, under other circumstances, he would freely have parted with much more than that, perhaps to Dr. Webster himself. But there were relations between them of an angry character. Dr. Parkman, as I say, was disappointed and chagrined with his want of success with Mr. Pettee; yet he never forbore the purpose he had in his mind, to enforce against Dr. Webster the payment of this money. He did not call in the aid of the law; he did not ask for a writ, by which his property could be attached; but he assumed, by his mode, I will not say of harassing the feelings of his debtor, that he should be able to obtain this money. Accordingly, you find that his pursuit was constant, his purpose unchanged and inflexible, and his manner, I think, never calm, in relation to this matter. He sent, by Mr. Pettee, a message, which, if it reached Dr. Webster, could not but have exasperated him. That that message, or another like it, did reach him, I think you cannot question. So early as Thursday evening preceding November 23, there were irritating circumstances connected with this subject. Dr. Webster was aggravated. Probably, never a profane word was spoken by Dr. Parkman; yet, that rash language was used, and, in the common parlance, vulgar language was used, which came in some way to Dr. Webster, certainly showing that there was not a kind relation between the two, I doubt not. You see it developed in other circumstances. So early as Monday evening of that week, that fatal

week, Dr. Webster was at a late hour in that laboratory, where he toiled for his daily bread, reading a chemical book, as Littlefield has said. You find Dr. Parkman, I will not say intruding upon him, but calling upon him. A conversation ensued, and Dr. Parkman departed, with a menace upon his lips. "Something must be done to-morrow," said he. The time is passing, — the morrow passed. Dr. Webster, in the morning of that day, according to Littlefield and Maxwell, wrote a note to Dr. Parkman. I wish it were here, and did hope, at one time, that, with the multifarious papers produced on this trial by the Government, that also would be presented. He wrote a note. Its precise terms are not communicated, but you will have no doubt that it had relation to the circumstances existing between them. Dr. Webster says that he came to him. That is a part of the memorandum found upon his arrest; and it is, therefore, competent for you to take into consideration that Dr. Parkman called again. At any rate, during that week, he was watching the highways, endeavoring to anticipate the approach of Dr. Webster to the Medical College. He was more than once at Cambridge Bridge. He was on the watch, — he was on the inquiry. He asked the toll-gatherer of the passages of Dr. Webster.

On Thursday, having been at the bridge, according to the testimony of the toll-man, he procured a conveyance, drove out to Cambridge, and, when near Dr. Webster's house, made inquiries for it, and returned. The next day they met, and by appointment, under the state of feelings and excitement which had been generated by their whole course of dealing, and by the pursuit of Dr. Parkman, so constant and so unintermitting, so pressing and urgent. They met. Is it strange that men, meeting under such circumstances, should get into a wrangle? Is it strange, or unnatural, that one party, who felt himself to be pursuing a dishonest man; that he had been personally injured; and, therefore, ~~that he~~ would take, I will not say the law into his own hands, but take that which would do more for him than the law could do, ~~he~~ would pursue his debtor? Is it strange that the debtor, who had been thus pursued, should retaliate? — that this should breed angry words, and that personal collision should follow, and that personal collision should be followed by that which, when done, death would ensue? I am arguing upon probabilities. There is in morals, as well as in politics, a regular succession of events. Passion has its sway, as well as the laws of nature. The action of the mind is as regular as the motion of the planets in their spheres. It was as natural that men should fall into altercation — that altercation should be followed by blows, and that blows should be followed by death — as it is that any cause should produce its effect.

Gentlemen, the parties met under these circumstances — in this state of excitement; and we are now to suppose the death of this individual. This is all that we know. The creditor, pressing with a firm, if not with a hard hand! The debtor resisting! Justice may sometimes seem to be too exacting in its requisitions. The claim of right may seem to him against whom it is pressed to be urged too far, and the party will turn upon the other, who seems to him to be the aggressor. Word after word will be followed by blow after blow, and deadly consequences may ensue.

Which, when we are speaking of probabilities, is more likely —

which most likely — the sudden altercation, bringing the parties to combat, and from combat to death; or that there should have been, on the part of Professor Webster, a cold, slow, fearful calculation, for a sin like this; — that he prepared the way; that he seduced the victim; that he led him on to the snare, and coldly and deliberately slew him? No, Gentlemen, the annals of crime *tell no such story as that:* that a man like Professor Webster, with such a character and such a position, has at one single step leaped away from all the influences of education, social life, religious instruction, all at once, to the highest and worst crime that man can commit against his fellow! And yet, Gentlemen of the Jury, unsight and unseen, with these surrounding circumstances, and these amazing probabilities, you are asked to believe that this crime was deliberate and with express malice; not that these parties — hot and excited from former altercations, freshened from every moment of intercourse that occurred between them — meeting for the last time, when the work was to be done effectually for Dr. Parkman — that it should have led on to a combat. There is no alternative. You are to judge which it was.

You are not to go beyond this period of time, but to stop there. What had transpired between these parties before that time? Nothing which afterwards transpired could change the character of the act, which was then complete. I leave to you, Gentlemen, as rational men, who are called upon here to decide upon the most numerous collection of circumstances that were ever presented to a Jury, to determine whether you will not gather from the circumstances surrounding these parties, and under which they met, the conclusion that it must have been beyond all semblance, and all reasonable doubt, that death came, not from premeditation, but from suddenness of anger, when there was a fearful heat of blood between these parties, exasperated the one against the other — exasperated until it came to death!

I have said that you are not to go beyond the act, to ascertain the character of the act itself. And it is easy to show that it must be so. Should you think that you could go further, to see what disposition was made of this body, when it was once killed, and gather premeditation from that, — stop and consider a moment. We should hope, perhaps we should even expect, that parties so situated, if they came to combat — if combat went on till death came — I say we should hope, and perhaps expect, that the party who, in the heat of blood, had been guilty of crime, would have been so overcome that he would have rushed from the place, and said, "God have mercy upon me!" to the first person he met; "I have killed my friend! From angry words, we proceeded to blows. Fuel was added to the flame, and in the heat of passion, I smote him to the earth, a bleeding corpse!" I say that we should have hoped that a man would do this. But would all do so? Professor Webster was a man of standing in society. He had a wife and children. He was poor. While his blood was hot, and passion high — his victim slain — he does one rash act more. Before his blood cools, he does one act more. Surrounded as he was, the temptation came over him to conceal; and he did the first act of concealment. From that moment, all disclosure was too late. The expected time of his salvation, by a public disclosure, was passed; and all that followed was the necessary consequence of the first false

step that he took after his brother was no longer a living man. He attempted to conceal; and, having attempted to conceal, and having cut himself off from all possibility of public disclosure, the arrest follows. One false step leads to another, and at length the temptation comes upon him to conceal and destroy. To conceal and destroy! The temptation comes upon him to avert suspicion — to shut out proofs — to turn away inquiry. If, then, Gentlemen of the Jury, he shut up his doors — if he gave out false statements — if he did, what I do not think the evidence will warrant any one in saying — write these anonymous letters to the police, it would be only a continuance of that first false step, by which he shut himself out from his duty, and then, to cover up the crime he had committed, attempted concealment.

Wrong in his impulses, he certainly was. But still, after it was done, and the concealment must come, painful as it was, he had driven himself into the circumstances. And I put this to you, to ask if you do not see that the explanation of his subsequent conduct has no tendency whatever to show you the character of the act.

Then, riddle this testimony in all its parts. See the relation in which these men stood. See one pursuing the other. How natural to prompt resistance! How natural for them to have had a combat! The combat makes heat of blood. In the suddenness of passion, life is lost. And then, according to the plain statements which have been made, you are to judge whether these probabilities do not show, clearly and satisfactorily, to any reasonable mind, that the crime could not have been premeditated murder, but must have been extenuated, by the heat of passion and the combat of the parties, into that great, but still lesser crime, of manslaughter.

Pass, now, Gentlemen, to the consideration of other matters. And yet, before I enter upon the evidence of the Government which bears directly upon Professor Webster, I have to ask your attention to that defence which was suggested by the Counsel associated with me, and which I may term the technical part: — the indictment and its averments — the duty of the Government in relation to it, and the effect of the evidence which they have produced.

The first and second counts in this indictment, Gentlemen, in my judgment, are substantially, for all practical purposes in this trial, the same. The charge is, that the defendant, with a certain knife which he had in his right hand, made an assault upon George Parkman, "in and upon the left side of the breast of him the said George Parkman, then and there, feloniously, wilfully, and with malice aforethought, did strike, cut, stab, and thrust, giving to the said George Parkman, then and there, with the knife aforesaid, one mortal wound."

The second count charges that, "with a certain hammer, which he the said John W. Webster in both his hands then and there held, him the said George Parkman, then and there, feloniously, willfully, and with malice aforethought, did strike, giving unto him the said George Parkman, then and there, with the hammer aforesaid, in and upon the head of him the said George Parkman, one mortal wound."

Both of these counts charge that he killed George Parkman by striking; and I suppose that any evidence to show you that the death was occasioned by any instrument would sustain either indictment.

I suppose that any evidence that would satisfy you that death was by the hammer, would be sufficient to support the charge that it was by the knife.

But the proof to support these counts will not be sufficient to support the third, which charges that he "did strike, beat and kick, in and upon the head" of George Parkman, and cast him upon the floor.

The fourth count charges that the individual, in some way or manner, and by some means, weapons and instruments, to the Jury unknown, did cause the death of George Parkman. Now we claim, — and upon this claim we shall receive the instruction of the Court, by which you will be governed, — we claim that the Government are bound, in a charge of murder, to set out the charge in a plain substantial, and formal manner. We claim that the law has distinctly declared what formalities are necessary in an indictment. We claim that, among these formalities, the law has prescribed that the manner of death shall be distinctly described. We claim that no indictment is sufficient, which does not set out distinctly and precisely the means of death. We have called the attention of the Court to such legal authorities as we think fully sustain this proposition. They were read to you by the Counsel associated with me. Of course, I have no purpose to repeat the particular statement, but to reässert generally the proposition, that the Government are bound to make such an exact statement in the indictment, or the indictment must fail. The defendant cannot be convicted under such an indictment. He is not bound to answer it.

With respect to this indictment, we say, — and we trust that we shall be sustained in this by the Court, — that it is incompetent for the Government to offer any evidence, or to supply any evidence which is offered to support it, because it does not aver how the death was occasioned, in some particular way and manner. That last count, Gentlemen, is no more than saying that the defendant might have killed Dr. Parkman by strangling, by poisoning, or by drowning him, in some way or some manner. Which of these, under this count of the indictment, is the defendant to prepare himself against — the fire, the water, the knife or the poison? He has a right to know. And therefore it is that the law has provided, that before an individual is brought to trial, the Government may set out the offence which is charged against him in just as many different forms, and under just as many different allegations, as they choose.

These different statements in the indictment are called counts. The law provides that the Government shall not be limited at all as to the number of counts. They may be extended, as my learned friend said, as far as the ingenuity of man can carry them; but still, when the case comes to trial, the Government are held within the counts which they have drawn, and the party is to be tried exactly upon the counts. And if it be that the Government are bound to set out the manner of death, if there be any count in the indictment which does not set out the manner of death, but is entirely indefinite, — so that it may have been done in one mode or in another mode, each of which is recognized by the law as a distinct method of taking life, and to be set out in a distinct form, — then the Government cannot make out its case, because it does not affirm either the one or the

other positively; but is loose and general, and does no more than if it had said these words — "John W. Webster murdered George Parkman."

If this proposition is correct, there is but one thing more I wish to say upon this point: that is, that, in applying the evidence, they must apply it to those counts which the evidence can sustain. For instance, if the Government can satisfy you that death was inflicted upon George Parkman by a knife or a hammer, you may apply the charge to the first or second count; but it would not support the third count, which charges a means of death recognized by the law, and, if relied upon by the Government, to be distinctly charged.

Then, again, if they present evidence to show that death was caused by striking with the hands and feet, and casting against the floor, that would not support the first two, but would the third alone.

With this statement, I proceed to add, that, in my judgment, there is no evidence in the case, — and I submit to you whether there is any evidence in your minds that you can apply to either of these counts,— to show that death was occasioned in that particular way, by the hammer and the knife. Do you know it, and can you affirm it, that this was the mode in which death came? It was not thought quite so certain by the Grand Inquest, by whom this indictment was presented. That is nothing. You are to pass upon it.

The only proof tending to show, in my judgment, that death was produced by either the hammer or the knife, is the evidence of Dr. Wyman, about the fracture of the skull, and the perforation on the left side. Will the evidence of those causes of death satisfy you, beyond reasonable doubt, that either of them were *the* causes? Remember that the Government are claiming that George Parkman was murdered by premeditation. Remember that they are saying, and asking you to say to John W. Webster, the fatal word, that he did premeditate this murder. If he did it premeditatedly, do you think he left the way of death to chance, to a chance blow, to the hammer which he might find, or the knife which he might seize; or that he prepared, in advance, the way? Will you say that he did not strangle this man — that he did not take care instantly to stop his breath by the lasso? Is that an unreasonable suggestion? When the Government are called upon to prove, beyond all reasonable doubt, that it was by striking or by beating his body with his hands and feet, are you prepared to say that this proof, which comes to no more than this — that he was living, and is now dead and mangled — shows that the death was in a particular form? Will you say, Gentlemen, that it is impossible that George Parkman might have been seized, and that liquid poison could not have been poured down his throat, while his head was held fast? Will you say that provision was not made by which he cast himself voluntarily upon the floor? — this man, who always went down those steps in haste — that he did not throw himself down, and destroy life in that way? We are in the broad field of conjecture. The Government ask you, not merely to conjecture, but to decide and to determine. It may be that there was a knife; it may be that there was a hammer. But is it certain? Unless it is certain that it was so, you cannot be satisfied of it; for it is necessary that the Government should aver and prove the cause of death. I ask you, Gentlemen of the Jury, if it be proved, beyond a reasonable doubt, that death was

occasioned in the forms and in the manner that the Government have set forth?

I know that the Attorney General said to you, in the opening, that if he had relied upon his own judgment, he would have put the charge only on the fourth count; because he would regard the assertion that the indictment could not be sustained under it as a reproach to the law of the land. It may be a reproach. The question is not, Is it a good law? If the law requires that certain specified forms must be gone through with, those forms must be gone through with. And which, I ask you, would be the highest reproach to the law, to leave such rules unamended, or for Courts and Juries, knowing what the law is, to legislate on a man's life for a particular case — make a new law when a man's life is in peril?

No, Gentlemen of the Jury; if this be the law, if the Government proof does not come up to the demands and requisitions of the law, then, I say, it is a great duty which you have to do, upon this state of things, viz., to discharge the defendant. Guilty, he may be. But what says the law? — "Better that a hundred guilty men should escape, than that one innocent man should perish;" and therefore it throws round the life of every man these guards and protections of the law. It makes rules for circumstantial evidence; it makes rules for indictments; it hampers its own officers with technical forms, for the protection of life. It means that it shall be so. And I say to you, Gentlemen of the Jury, that to acquit even a known felon of an offence odious and atrocious, — I say, to acquit him, according to law, is a nobler triumph than was ever witnessed in the groans or agonies of convicted guilt upon the scaffold. If, Gentlemen of the Jury, you shall receive instruction in conformity to the views which we have taken of the law upon this subject, — if you cannot find, beyond reasonable doubt, how this death came, — for your country's law and your country's justice, I ask a favorable verdict from you on that point.

Gentlemen of the Jury, I shall proceed now directly to the consideration of the evidence upon which the Government claim that they have brought home to the prisoner at the bar the charge which they made. And here, Gentlemen, we must pause for one moment, to see again the precise position which the parties occupied. I say, then, to you, once more, that the Government claim that George Parkman entered the College between the hours of one and two, on the 23d of November, and that he never came out. The defendant admits that Dr. Parkman was there at the hour of half past one, and that he left the College. You see the position which the respective parties take. If the Government will not take the admission of Dr. Webster that George Parkman was there at one and a half o'clock, but choose to take a different hour, that different hour is by them to be proved.

Now, Gentlemen, I wish to call your attention particularly to the evidence bearing upon this question. I wish to do so, because involved in it is another consideration. The Government claim that Dr. Parkman came to his death by Dr. Webster's hands. Dr. Webster denies that statement. The Government claim that the remains which were found were those of the body of Dr. Parkman, and that they have proved that he came to his death by violence. This is neither admitted nor denied, in this state of the question, by

Dr. Webster; but he says he knows nothing of it. We stand, then, Gentlemen on that—*on that*, as from the beginning. When Dr. Webster, on the morning of the 1st of December, after such a night as a man has scarcely ever passed, recovered partially the power of speech, he uttered, in simple but expressive language, his defence: "I do not think those remains are the remains of Dr. Parkman; but how in the world they came there, I am sure I don't know." His proposition, then, Gentlemen, you perceive is, that by some way and means, and for some purpose or other, those remains were placed in that building, without his agency, and without his knowledge; and never has he professed to know what they mean. He cannot now profess to be able to explain them. This he says—"I am guiltless of my brother's blood." The evidence of the Government, how summary soever it is, cannot and ought not to avail. I wish, then, Gentlemen, to trace, as well as I can, the evidence of the Government which bears upon these two propositions.

There are a few subjects which, it seems to me, can be disposed of now better than in any other stage of the cause; and I now propose to dispose of them, before going to the great propositions. The great circumstances which the Government rely on are, that Dr. Parkman entered the Medical College, and never went from it; that shortly after, the remains were found in such a manner as to imply that Dr. Webster must have known about them. There are several auxiliary circumstances connected with it.

In the first place, I call your attention to these anonymous letters. Three letters were received by the Marshal. They are brought in here for the purpose of showing that Dr. Webster attempted to avert the attention of the police from the College. And it is said — the argument must be, that Dr. Webster, if conscious of innocence, if there was no occasion for diverting the attention from that College, could never have written such letters. The argument is strong, if the fact is established beyond all doubt. It would be difficult to assign a motive why Dr. Webster, as an innocent man, should have written such letters for any purpose, except to divert from himself the inquiry.

But, then, we are to consider, first, — is the fact proved, that these letters were written by Dr. Webster. That, Gentlemen of the Jury, is utterly denied. I mean to state it to you from him as strongly as I can; — it is utterly denied. And I mean to call your attention to the proofs in the case, for a moment or two.

I am sorry, Gentlemen, it happened that these letters came so recently into my possession as they did, — that I should have had so little opportunity to make a personal examination, and to go abroad, and to see what examination could be there made, in relation to them. They were put in the last of the Government's evidence. My engagements were of the most pressing character, and those of my associate, also. We were drawing towards the close of the trial, when we were to make preparation for this hour; and our attention could be less effectively given to these letters than it otherwise would. And yet I have seen sufficient of these letters, enough to satisfy me that the evidence is not such as to convince you that Dr. Webster wrote them.

The evidence that the Government has is, first, the letters themselves,

and then the testimony of experts. Deacon Gould says he has, for a long time, known the hand-writing of Dr. Webster, and that he has some superior knowledge; but I think it cannot have escaped your attention, that it was presented on the ground that he has effective skill. Now, as to these letters, there is quite a difference between them. Mr. Smith, the engraver, sustains Mr. Gould about the "Civis" letter, but not about the others. That letter was dated on Monday; the others were dated the 30th. Indeed, one was dated the 31st, but post-marked the 30th. Now, it is these that Mr. Gould has expended his force upon; and if either of these is in the hand-writing of Dr. Webster, the "Civis" letter is.

I have not had much time to examine this, but I wish to call your attention to some things which Mr. Gould states. He sees the resemblance in certain letters, in which he says they are precisely alike. Now, I have unpractised eyes. I claim no skill as an expert. Quite the reverse. But I think I have skill enough to discover that, in some of these particulars, — and I think you will decide in all, — this Mr. Gould is the merest visionary ever called upon to testify before a Jury.

I am about to ask you, when you retire to your rooms for the last solemn decision, that you will take these letters. Remember that you are not to be governed by the opinion of Messrs. Gould and Smith; they are only opinions. And you are to consider whether it is proved, beyond all reasonable doubt, that these letters are in the hand-writing of that man. In connection with that opinion, you may have your own opinion, and exercise your own judgment. And from comparison of the same papers from which that witness has formed his opinion, I will show you a specimen. Among other things which the witness says were made alike, you will remember, were the figures 1, 3, 4 and 9. You will find, in the "Civis" letter, that they are made different. Here is the date 1849, — "the last shall be first, and the first last," — I wish you would look at that 9, and then look at those upon every one of the checks.

Believing, Gentlemen, most confidently, that letter is not in the hand-writing of Dr. Webster, — (it would take quite too long to go into particulars,) — I have to say, generally, that I think the most careful scrutiny of it, in comparison with the real letters which have been produced, will show that the objection of Mr. Gould, upon this subject, is of such a character that no Jury will feel safe to act upon it in unimportant matters — much less to be sufficient to justify them in acting at all upon any part of the evidence.

I know that I need not dilate upon this. I have stated my own convictions. The Court will state to you what the evidence is; the Court will state the law. And I will leave to you to form your judgment upon those letters, with the genuine papers in the case; and have no doubt, that when you have done that, — though the Government have been zealous and honest, have done no more than what is right and fit, in laying the evidence before the Jury, — yet, you will come to the conclusion that you have no other right, and no other evidence, in relation to that, than to lay it out of the case.

There are one or two other considerations. The Government have introduced testimony here in relation to certain articles found in the possession of Dr. Webster. They have called testimony here, to show you that on Friday morning Dr. Webster ordered a tin box.

So he did. How does that connect Dr. Webster with this murder, or anything in relation to it? Why, it may be argued, that it is a box in which the remains could have been put. But was the box made for that purpose? Did the Doctor say anything which indicated that it was to be made for that purpose? The Doctor said no such thing. Where were the remains? — and where was the box to go? The remains were at the Medical College. Was the box to go there? The box was to go to Cambridge.

Mr. Clifford. No, sir!

Judge Merrick. It was to go out of town, to be filled.

Mr. Clifford. It was the witness' own construction.

Judge Merrick. It was what he said. Now see the position in which the Government was placed. Dr. Webster calls at Mr. Waterman's, orders a box; and is asked what it is for, and he tells. He is asked where it is to go, and he tells. The Government ask you to think that that is a lie. The Government say that it was a good thing to put the thorax and the thigh in; and, therefore, conclude that it was so. Gentlemen, you are to be satisfied beyond reasonable doubt; not what is probable; not what is likely. And yet, Gentlemen, seriously, the life of Dr. Webster is dependent upon this very thing.

Suppose that the case were so balanced that the Jury should say, We are satisfied, if it is proved that this box was made for this purpose. The Government say they can prove it. They call in Mr. Waterman, who says, "The Doctor said it was to put small things in, and to be sent out of town to be filled." All you can say is, that that is not true. That is to say, there is no proof, one way or the other, as to the ~~cause~~ to which it was to be applied. And yet, this cause is just as much to be proved as you are to be satisfied beyond reasonable doubt of the murder itself. Every fact which the Government present makes an issue; and if it is disputed, then that fact is to be established by proof, and not by conjecture. And if the proof falls short, then that fact is to be laid out of the case. It is to have no influence, because it is not proved. That is the whole argument with respect to the tin box.

I have only to say to you, with respect to this, and the fish-hooks, that Dr. Webster had ideas of his own upon this subject. We cannot prove it by what he said to his wife, or children, or anybody else. He cannot get up in Court and testify to it. He does say that they had nothing to do with it, and puts the Government upon proof. Standing in a land of law, he has a right to say that they are not proved.

With regard to the fish-hooks, the Government say, probably, that they were to be made into a grapple. Where have they the proof? Will they take the statement of Dr. Webster as to what he intended to do with it? No, they will not. And if they will not take that statement from him, take you none from them. "Prove all things, and hold fast that which is good."

Now, then, I say that the Government, with reference to this, have given no more than a possibility, not an application; and they must show the application, or the intent to apply these articles, or they can have no effect.

At one time, another matter seemed likely to cause perplexity. I refer to the bag of tan which was brought to the College by Sawin.

Chief Justice Shaw (*reads.*) "Mr. Waterman said that he would solder it, and the Doctor said it would be done at Cambridge."

Mr. Clifford. The Jury may judge of it.

Judge Merrick. That is what I am asking them, with all my heart, to do. With respect to the tan, it seemed at one time momentous. Dr. Webster sent in, at one time, a bag of tan, from his house. A part of these remains were found imbedded in the tan. Here were these remains on Friday, and the tan was sent in on Monday. Dr. Webster is able to prove that the tan was there on the morning after his arrest. The bag of tan was seen on Tuesday morning by Mr. Kingsley. But it existed untouched on Friday morning.

There is no proof that there ever was seen any other bag. It does not appear that the tan was ever used, or touched. Still, here, as in the other case, I suppose that the Government ask you to make some inference from it. The truth is, the tan was there for a purpose which Dr. Webster could explain. If you go into the laboratory, and see all the contrivances, you would hardly be surprised that anything which mechanics use should. in larger or less quantities, be found in a chemist's laboratory.

I did not know, Gentlemen, at one time, but that we should be in danger from another matter, of which evidence is in the case — that bunch of keys which was found after Dr. Webster's arrest. I did not know but that they were to be brought in, in some way, to the connecting Dr. Webster with this awful crime. But all that we have upon this subject is the explanation of Dr. Webster. He says he found those keys, and thought they might be useful. The keys were separate and distinct; and it turns out that a portion of them will apply to the dissecting-room, and to two doors in his own room. He had a right to go to the dissecting-room, and to his own room; and, therefore, the keys are nothing. If he were on trial for burglary, they might be proper evidence. Being on a trial for murder, deadly weapons would be proper. The keys touch the burglar; the deadly weapons touch Dr. Webster. I submit that there is nothing which affects, or which ought to affect, this case, in the slightest degree.

Mr. Littlefield has testified, in relation to a sledge-hammer, which was there at the time when it is supposed this crime was committed, that he has searched diligently for it since — and it is gone.

Another witness has testified in relation to twine. There was twine found tied around the bone of the thigh that was inserted in the thorax, which was buried in the tan. This twine corresponds with twine which was found in the private room of Dr. Webster, and that which was on the fish-hooks which were purchased. Now, if Dr. Webster committed this offence, he might, or he might not, have ~~thrown it away~~. If he made that grapple, and while he was doing it on one side, he was tying the thigh with the other, it might convict him. But take our hypothesis, and it explains it. "How these things came there, I don't know."

The Government's case does not exclude the idea that all these might have been placed there by another agent. If another man came there and did any of these things — that is enough. If another man came there and brought these remains, that man could dispose

of them, could carry sledges away if he pleased, could use sledges, and, if he found a ball of twine there, could tie it round the leg of a human being. And therefore the twine and the hammer are explained, if at all, by the agency of the third person.

One or two words upon two or three other topics, before I come to the main topic. Something was said about a $20 bill. Dr. Webster came to Trenholm, and inquired about the $20 bill which he had heard of from the Marshal. Dr. Webster knew nothing about it, and inquired. Mrs. Coleman testifies that Dr. Webster called on her, and asked her if she saw Dr. Parkman on Friday. She said, "No, it was on Thursday." He asked again if it was not on Friday, and she repeated her answer. Just as he was going out of the door, he asked the third time. She seemed to indicate, by her manner, that he had asked enough; and she answered something sharply to him. Everybody was inquiring, at that time, if any one had seen Dr. Parkman. Dr. Webster was interested in everything that touched public excitement; and he was as likely as anybody else to inquire of any one whether they had seen Dr. Parkman. When passing from the College to his home, he called on her, and asked her if she saw him on Friday. She says, "No, on Thursday." Now it happens that it was almost immediately afterwards that he was arrested. It was on Friday that he called — on Friday, the day of the arrest, when he was going on a voyage of discovery. He said to Mrs. Coleman, "I saw him on Friday."

Chief Justice Shaw. This is Mrs. Bent; and now is Mrs. Bent Coleman.

Judge Merrick. She is the same person. She is now called Mrs. Bent Coleman, and has probably made some addition to her name since that time. I cannot but think that Dr. Webster must have understood Mrs. Coleman differently, or he would not have asked them to call in and get her conversation. There is no pretence that Dr. Webster sought to induce her to make any representations upon the subject. He did not persuade her, or attempt to persuade her; but he simply asked for personal information; and having obtained that, howsoever he understood it, he did not ask her to make false representations. I shall leave that, with an assurance that it cannot make an unfavorable effect upon the interests of my client, upon the present trial.

There are two matters testified of by Mr. Littlefield, which would better be disposed of with this class of miscellaneous testimony. I refer to the blood, testified to by Mr. Littlefield, and to the inquiry of Dr. Webster relative to the dissecting-vault.

In the first place, with respect to the blood, Dr. Webster was entirely open in his communication with Mr. Littlefield upon the subject, asking him to go to the Hospital, and saying that he wanted it for his own lecture. There is no evidence as to the use intended to be made on that occasion. Professor Horsford has said that it is not unusual to use blood, in the course of chemical lectures. If the subject was proper, it might be used to advantage. There is a presumption of law in reference to this, as to all parties — that the innocence is presumed unless the contrary is shown. And unless it can be shown that there was an inappropriateness of the use of blood in that lecture,

it is nothing. He probably wanted it to show to the class, as teachers of chemistry sometimes do.

Then, as to the dissecting-room vault. Dr. Webster inquires whether it was mended; adding, that there was some talk about having it done. Littlefield said it was done. "Well," says Webster, "it is tight, now; does it generate gas?" No; the Doctor did not ask the question; but he ~~found out~~, so that he might infer it. Said he, "Did you ever try a light?" "Yes," says Littlefield; "Dr. Ainsworth asked me to put a light down, and I put one down, and it went out. Dr. Ainsworth could not get the article he was in search of." Dr. Webster says, "I want to get some gas," as soon as Mr. Littlefield told him that the light went out. "Can you, sir?" says Littlefield. "Yes, I can," was the reply; "and I will do it at another time;" and there the conversation ended.

It is a fact that Dr. Webster made this inquiry for an innocent object; and it is made use of, on this trial, against him. The truth is, if he contemplated this murder at all, it was so complete a place, and he was so assured of its safety, that you would, certainly, if Dr. Webster had done it, have discovered the body there, instead of anywhere else. I submit to you, that the evidence is insufficient to prove that for which the Government present it.

I am sorry to delay you so long about these subjects. They are a part of that immense mass of evidence which is thrown into the scale against the life of the prisoner at the bar. I do not believe that, in the final adjudication of this case, you will feel at liberty to regard them at all; and I pray you, that unless they are clearly proved, and unless you are satisfied, beyond all doubt, that they have to do with the case, that they will be removed from it.

I come now to the evidence bearing directly on Professor Webster, viz., to the first proposition, that Dr. Parkman never left the building, and that the remains of Dr. Parkman were those slain by Dr. Webster. Dr. Webster's proposition is, that Dr. Parkman was there at half past one o'clock — not after; not at ten minutes of two, but at half past one; and how the remains came there, he is sure he don't know.

And now I have to ask you to consider that the Government theory is altogether incorrect; and that there is strong reason to believe that these premises were invaded by an unknown form. I have called, Gentlemen, your attention carefully, I hope, candidly, to the evidence which the defendant has been able to produce here, tending to establish the fact of the *alibi* of Dr. Parkman. That *alibi*, according to the evidence on the part of the defence, commenced at twenty minutes after two o'clock, when he was first seen, in Causeway-street, by Mr. Thompson.

I mean now, Gentlemen, by the most precise and careful analysis of the evidence in this case that I am able to make, to satisfy your minds, not only that we, on the part of the defence, have proved the *alibi*, — that is, the separation of Dr. Webster and Dr. Parkman, — but that the Government have fully, and clearly, and unequivocally established it. I mean, Gentlemen, that this evidence, when all considered, — all that they have put in, connected with all the facts in the case, — will fairly warrant the conclusion, that, at the times when the Government witnesses say they saw Dr. Parkman, it was after he had

been in and finished his interview with Dr. Webster, and had gone away.

This, Gentlemen, you perceive, is a matter of the greatest importance, because, if it be true, it has the strongest possible tendency to show, that although appearances may be now so much against Dr. Webster, and although this testimony presses so that at times it might seem impossible to escape, — I say, if this be so, it has the strongest possible tendency to exculpate Dr. Webster, and fix the crime somewhere else; not that Dr. Webster can explain it, but it shows that there is a theory and a hypothesis which the Government's testimony does not overcome or reach.

Remember that rule which governs circumstantial evidence, which was so admirably explained to you by my associate, that the Government are to prove, first, the facts, as the basis of the conclusion; secondly, that the facts shall tend to establish, and actually prove, the proposition which the Government assert; and, thirdly, that they shall exclude, to a moral certainty, every other reasonable hypothesis.

Now, Gentlemen, if the Government testimony goes only to show that their testimony will support their theory, but falls short of excluding any other reasonable hypothesis, and excluding it to a moral certainty, then, howsoever strong suspicion, or probabilities, or bias of mind, may be, yet the fact asserted by the Government cannot be said to be proved beyond reasonable doubt.

Let me call your attention to this question of time; it becomes of the utmost consequence. Recollect that the assertion of Dr. Webster is, that the time was one and a half o'clock, — not more than that. Was that the time?

The Government witnesses, Mrs. Martha Moore, her son George, Dwight Prouty, Jr., and the Messrs. Fuller, clearly establish that the time Dr. Parkman was seen going down Fruit-street into North Grove-street could not have been earlier than ten minutes before two o'clock. Dr. Webster says that is twenty minutes after he was at the Medical College. Where was Dr. Parkman during that twenty minutes? Had not he got there, and gone away?

I will endeavor to satisfy you that he went there, and finished his business, and had gone. At half past one, Dr. Webster says he was there. What did Littlefield tell you that he testified on this subject, on a former occasion? He fixes it now, approaching two o'clock. He does not fix it entirely; he leaves it something loose. But he tells you that on a former occasion he thought and testified that it was earlier.

Chief Justice Shaw. The only possible way in which that original testimony can be used is by impeaching the witness. It is against his present testimony.

Judge Merrick. I will not allude to it, then. Mr. Littlefield fixes it indefinitely. What he said upon a former occasion has no bearing. Dr. Webster fixes it at half past one o'clock. What was the hour of the appointment? Here we are not left to the statements of Dr. Webster, but we have testimony from a witness on the part of the Government, and from a person who knows something in relation to it. I refer to the testimony of the servant of Dr. Parkman, Patrick McGowan. He did not hear all the conversation, but he did hear enough to know when was the hour of the appointment; and the hour of

appointment was half past one o'clock. Then we have these two important facts, to aid the assertion that Dr. Webster first asserts, that it was half past one o'clock.

Mr. Clifford. McGowan says that he heard something said about half past one o'clock. That is all he says.

Judge Merrick. There was an appointment, and the hour of half past one o'clock was mentioned. This appointment, I think fairly to be inferred from the testimony of Patrick McGowan, was at half past one o'clock. It is likely that, according to that appointment, Dr. Parkman was there at that time, because, according to the testimony of his friends, he was the most punctual of men. If he made an appointment, he kept it; and exactly, and especially, and strongly, in this particular case. He was pursuing Dr. Webster earnestly and closely.

If Dr. Webster appointed to meet Dr. Parkman at half past one o'clock, upon this business, do you believe that the most punctual of men would have given to him the opportunity of an apology — "You were not here at the time"? And therefore I say, upon the proof of Dr. Webster's own assertion in the case — on the testimony that comes from Patrick McGowan, and the probability arising from Dr. Parkman's habits of punctuality — it is extremely probable that the statement of Dr. Webster is true.

But now I come to the testimony of Dr. Bosworth, and to compare that with Littlefield's, who says that he saw Dr. Parkman coming towards the College on Friday noon, November 23d, and that the door was wide open. The door *being wide open*, and Dr. Parkman coming toward the College, he went into the adjoining room, and saw no more. There was another man there when Dr. Parkman passed. Littlefield was standing there looking out, and immediately after saw Dr. Parkman go up to the door, as he passed by. Dr. Parkman went up on the steps. Now, Littlefield did not see Bosworth. Littlefield has not given any account of seeing any man at that time.

One thing more, which shows that there were two times when Dr. Parkman came there. When Dr. Parkman was coming up from Grove-street to the College, the door of that College, according to the testimony of Littlefield, was wide open. When Bosworth came there, and crossed the top of the steps in front, the door stood ajar — that is, partly open.

Now, the testimony of Bosworth, in connection with the statement of Dr. Webster, the time appointed as attested by McGowan, and the punctuality of Dr. Parkman to meet all appointments — I put it to you, if it is not the most probable thing in the world, that Dr. Parkman was at that place at half past one o'clock, and then went away. Fifteen minutes after, he was in another place, according to the testimony of Mrs. Hatch, who testifies that at fifteen minutes before two o'clock she saw him going up Cambridge-street. I put it to you, whether this is not clearly evinced by all the testimony: that the appointment was made at half past one o'clock; that the most punctual of men kept it; that the interview was, as Dr. Webster says, very short; that he left the College; and then, for some purpose or other, came back again, but shortly after was seen by Mr. Thompson, in Causeway-street. I do not see, Gentlemen of the Jury, how this conclusion is capable of being avoided. The appointment was at half past one o'clock. Dr

Parkman was the most punctual of men. Dr. Webster had no earthly reason to state a false time. If he were guilty, and made a disclosure, he would disclose the true time. Dr. Bosworth saw Dr. Parkman when Littlefield does not state of seeing anybody, and when the door was in a different situation from what it was when Dr. Parkman was there the second time. I put it to you, when we are in a case surrounded by nothing but probabilities — perhaps hurrying this prisoner to the last hour of life — whether a deduction cannot be drawn, which will satisfy the mind of any rational man, that Dr. Parkman had finished his business, and that this proof of the Government shows that he came there again.

Let me ask your consideration to one thing more. Dr. Parkman stepped into Holland's store, and talked about butter and sugar. Only consider that he had not been to the College. He had made an appointment to be paid by Dr. Webster, after pursuing him in all directions — going to Pettee and to the toll-man — going to Cambridge — watching the highways and byways; and then he goes down to meet his appointment: and do you think he would stop in to Mr. Holland's to spend a quarter of an hour about buying butter and sugar?

Take another hypothesis. He has seen Dr. Webster, comes away, and goes to Holland's store. Holland says it was about half past one o'clock. Mr. Moore says it was a little later. He steps into Cambridge-street just in time to be seen by Mrs. Hatch. And then you will find that afterwards he was upon the College steps, for some purpose or other.

Here are these facts. I cannot explain them; there is mystery everywhere. If it cannot be explained, give to the defendant the advantage of all probabilities and arguments in his favor. Do not let your decision be more fatal than the events of that day.

If, then, Gentlemen of the Jury, there be a strong probability that Dr. Parkman has been murdered, I cannot conceive anything stronger than this position I have taken. The testimony of Bosworth strikes my mind with vast force. Not seen by Littlefield! The door partly open, and not as Littlefield testifies it was when he was there at ten minutes before two o'clock!

Now, Gentlemen, let me go one step further. I have said to you, in an earlier stage of the case, that it was not uncharitable, nor unjust, nor unreasonable, to suppose that, in this state of excitement, he might have been touched by those causes which occasionally touch and overcome human infirmity; and that if his friends believed that he might have been overcome by aberration of mind, this may account for his irregularity of movement — for his failure to return home — his conduct, in one instance, at least, peculiar.

Now let us trace that night down, and see whether the Government testimony excludes all reasonable theory. If Dr. Parkman was out, you see the foundation for a reasonable theory exists. If his dead remains were found, Dr. Webster had nothing to do with them. That night, at half past ten o'clock, he was at home, or at Mr. Treadwell's; found at home at half past twelve or one o'clock, and at home in the morning. A medical student has testified that he saw Dr. Webster at six o'clock in the morning. I leave it to you to say whether he is not mistaken. Mr. Kidder saw him at five o'clock, buying cologne.

The young ladies say that he was with them at tea, and spent the evening with them. That night, when I have shown you that Dr. Parkman might have been brought into the College, Mr. Littlefield was careful to fasten up that building, bolt the dissecting-room door on the inside, and leave it bolted. *The next morning* — Dr. Webster at home during that night, and all night — that dissecting-room door, which was bolted on the inside, was found unbolted. Somebody had been there. Who was it? I don't know. Somebody had been there. Inexplicable, mysterious, but important, most important, for your consideration! Somebody had been there. Monday and Tuesday, these rooms of Dr. Webster were passed through, at least, if not searched. Nothing then was found. Wednesday after, he returned home at eleven o'clock. Dr. Webster was in Cambridge, and remained there till evening — till he went to pass the evening with his friend Cunningham; spent Thanksgiving at home, and came into Boston Friday morning.

In the mean time, had anything else transpired? During this period of time, Dr. Webster's rooms were accessible, because Littlefield got in, though not through the door. But he who unbolted the door on Friday night could have got in the same way as Littlefield did. But, during that time, a change of some significance had taken place.

Kingsley made an examination with Littlefield — slight, it may be, but still some little examination. And, among other things that he saw, was this tea-chest, at that time filled with tan, and partially covered with papers containing minerals, or with minerals in papers. Partially covered! Not entirely! Only covered in such a way that he could see the tan just as well as he could see the minerals!

Mr. Clifford. Are you speaking of the first search?

Judge Merrick. I am speaking of the search on Tuesday.

Mr. Clifford. The first was Monday.

Judge Merrick. Between that Friday and Tuesday there was a change in that particular. That chest then was only partially covered up with minerals. A change had taken place, and, in the mean time, this building was accessible. It had been entered in a mysterious way on the very Friday on which Dr. Parkman disappeared. A change took place, and, accompanying that change, there are these two very remarkable circumstances. In this tea-chest, what else was found? In it that knife, as clean as when taken from the merchant, with no spot upon it, was placed. Wherefore so? Dr. Webster had made no concealment of it. Wherefore conceal? The silver weapon was exposed. Why hide this, a clean knife, by the side of that tan? If Webster had done so, why? If another man had done so, he had a motive; that was, to bring in direct connection Dr. Webster and these remains. And therefore his knife may have been placed there.

Another circumstance! Why was that twine put upon the bone of that thigh? Can you conceive the reason? Assume that Dr. Webster did it. Wherefore did he put the twine upon the bone? He did not put any twine upon the remains which were cast into the vault! He did not tie it round the thorax, for the purpose of pressing it together. But it was tied to the bone. Wherefore — *wherefore?* Dr. Webster could not have done it. If there was a mysterious being there, who changed things while he was gone, who did all the business, — then, Gentlemen of the Jury, you can see a reason why that twine was there. It was to bring, if the matter were ever discovered, that portion of the body into immediate connection with somebody.

Now, Gentlemen of the Jury, these remains were not found, any of them, on Monday or Tuesday. On Tuesday, remember, the testimony of Mr. Kingsley was, that he saw a fire burning in this furnace — a bright fire burning there. But there is no pretence, I think, that then the head, or the arms, or the limbs, of any human being, were in that furnace. There is no such pretence as that. If there was a bright fire burning, it was seen; and if human flesh or bones were burning, they would have been noticed.

On Wednesday, it was said that there was a great fire burning in the furnace. But Littlefield saw none. Yet he did see Webster carrying the materials. For what purpose, we do not know. But this we do know, — watched or not watched, Dr. Webster left early on that day, and did not return till Friday morning. In the mean time, the room was open to whomsoever might go there. And if there was a person who disposed some of these remains by putting them under the privy, finding the fire left by Prof. Webster in the morning, might he not have conceived the idea of burning a portion of the remains there, and so the whole be accomplished?

Now I have said that these were mysterious circumstances. Probably Dr. Parkman wandered round the city, and finally went, in the evening, to the College. But there is a mystery beyond.

There is one mystery concerning what is found. The remains found are those alone of the *naked* dead body of a human being. Where are the remnants or the traces of the garments? In this furnace, mark, so accurate and so exact was the examination of the chemists, that they were enabled to detect a quantity of tea-chest lead. It is in the report which has been read to you. So exact and minute was one examination as that. Where is anything, or the remains of anything, but the naked dead body of a human being? And yet, Gentlemen, it is certain that Dr. Parkman wore garments from head to foot, and had a coat, and under-clothes, and boots. And there undoubtedly was, as there is about all of us, something of an incombustible character — the buckles of our suspenders, sometimes the buttons on our coats, and the nails in our shoes. Somewhere or other, have not remnants, or specimens of the remains of these, been found?

Now, I put it to you, if when in that College you find nothing but the remnants of a naked human being, — if you know that Dr. Parkman had garments upon his person, if you find that there is a probability that he may have been, in aberration of mind, wandering in different places — I submit to you if it is an extravagant, visionary theory, that he was stripped elsewhere, that his garments never were in that College; that he was taken in there a naked body, and treated as he was treated till danger was thought to come, and then his body was disposed of. You are the judges; but upon these facts, these probabilities, these circumstances, you must pass. They cannot be disguised; they cannot be discarded. And if they make doubts for the Government's case, - if they leave you, with all their accumulation of proofs, in a state that you cannot say, with positive assurance, I am convinced, beyond reasonable doubt, that every other reasonable theory is, to a moral certainty, excluded, — then our innocence may not be manifest, but our salvation from conviction is, under the laws of the land, made certain to us.

I wish, for a few moments, Gentlemen of the Jury, to ask your attention to the consideration of some of the testimony of the Government, which has been thought to be, and perhaps rightly thought to be, of a very conclusive, at any rate, of a very material character. I refer to the testimony of Mr. Littlefield. I regret Gentlemen, that my duty compels me to allude to the testimony of that witness. I regret that I am obliged to do so, because I am confident whatever is said about this has a tendency to point a suspicion toward him as the perpetrator of this crime. Now, Gentlemen of the Jury, you must not misunderstand me. I will not take upon myself the fearful responsibility, in defending one man, to charge another with the same crime. Far be it from me to say that I will charge Ephraim Littlefield with this crime! Far be it, whatever may be the tendency of my comments, if the effect should be to fix it upon him — far be it from my intention to connect him with this crime! But, Gentlemen of the Jury, it is my duty to examine, and it is your duty to weigh, the testimony of this witness; and if there be anything which tends to affect the testimony of that witness, you must give it weight, whatever the consequences may be. So must I discuss it.

Gentlemen, I shall discuss this subject in the fearless discharge of duty, leaving consequences to direct themselves, but without making the slightest imputation upon Mr. Littlefield as the murderer. You are to consider, Gentlemen, the testimony of this witness. It is important, because it has a tendency, I admit, to exclude the theory which I insisted upon in behalf of the defendant. It has a tendency to show the more direct agency of Dr. Webster with the various facts and circumstances connected with these remains, and therefore to endanger my client's life.

Then let us see if there are circumstances which should abate our trust in that testimony. If there are, we must give them weight. We will not charge crime on others, but we will save those who are charged with crime from an erroneous conviction. You are to weigh the testimony of Mr. Littlefield. He is, to some slight extent, corroborated by the testimony of others; by Sawin, the express man, from Cambridge, who says that he brought things from there, and left them in the entry, as he never did before. I suppose that he had never brought such things before. He says the Doctor told him, — not that the room was locked, and that he would not find the keys, — but to leave them in the entry. But he went there, and concluded that he would take the key from the kitchen, and stepped in to get it; but it was gone.

First, Dr. Webster did not say the room was locked. Secondly, consider that he said nothing on the subject of the keys. Third, Mr. Littlefield had said that he had continued to go to this door, that he had tried it, and found it bolted on the inside; from which I think it not improbable that the key was in the possession of Mr. Littlefield himself, he retaining the key, not for the purpose of deception, but in the natural course of things.

Chief Justice Shaw. Sawin's testimony was, "Dr. Webster said Leave them outside, and I will take them in."

Mr. Clifford. He corroborates Littlefield.

Judge Merrick. I stated that he did so, fairly. And I think, so far as that the doors were locked, Mr. Littlefield is confirmed. To

about the same extent, Mr. Littlefield is confirmed by the testimony of Mrs. Littlefield. It is not very material. She had been asked to do something, and after a time was unable to do it, without explanation from Dr. Webster.

But Mr. Littlefield says much more. And it is not, after all, so much the effect of the testimony of Littlefield, in finding this door or that door fastened, which exerted an influence; but the tenor of his testimony, that Dr. Webster entirely changed the character of his conduct, entirely changed the mode in which he took care of his room, and gave outward manifest appearance, by changed conduct, that something was wrong. When this is the purport of a witness' testimony, it becomes of the highest moment to understand how full is the credit to be given him — if he is to be fully credited. If he is not, then human liberty and human life cannot rest upon any deductions to be drawn from such proof.

We do not attempt to impeach the testimony of Littlefield as to general character. We do not rely upon discrepancies and contradictions. Some mistakes he has made; some errors he has fallen into as to time; some difference, upon a close analysis, I think, would be found in his testimony, relative to results and the testimony of others. But upon these matters, Gentlemen of the Jury, I am not disposed to dwell; though I must say that we should be careful, extremely careful, where life is in peril, not to place too much dependence upon a witness who, in giving part of his testimony, has fallen into error. A wide berth must not be given to witnesses upon whose testimony depends the fragile thread of human life.

Yet, it is not upon the ground that he mistook the time of the interview that I should ask a Jury, even in such a case, to question his testimony; but the material part of it is upon the character and conduct of the party charged with the offence. And it is my duty to call your attention to this intrinsic, internal evidence, and ask you whether there be not something from which a disposition to give credit and reliability starts back.

Gentlemen, consider this testimony. Consider the accounts which he gives of himself in reference to Dr. Webster and these remains; that is the material amount of his testimony. It spreads over a vast surface. He occupied the time of some three or four of the longest of the Government's witnesses. But, after all, it narrows down in importance to a few matters, and the credibility which is to be given to it depends upon a few circumstances.

Gentlemen, in considering this testimony, let us take a point from which we may make our observations. That point is Sunday night, when he had his conversation with Dr. Webster, who then inquired of him when he saw Dr. Parkman last. He replied, on Friday; which, in passing, Gentlemen, you may recollect is quite different from what he said to Trenholm, on Saturday — that he had not seen Dr. Parkman for three or four days. Dr. Webster told Littlefield that at the hour of one and a half o'clock, Dr. Parkman came, and he paid him $483. And then, by the narrative of Dr. Webster, and his manner, "it came," says Littlefield, "into my mind, that Dr. Webster was guilty" of this awful crime of murder. Up to that moment, between Littlefield and Webster there had been as kindly a relation as there is between you, Gentlemen, from your long acquaintance upon

this panel; — the Professor occupying a chair in that College; Littlefield holding a place in part under Dr. Webster, and Dr. Webster a man of fair character and reputation in the world. Yet, this brief conversation, as Littlefield said, forced upon his mind the clear, settled, firm conviction, that Dr. Webster, the man whom he was talking with, was a murderer. He had a sharper vision than the police officer, Fuller, who visited Dr. Webster, and had more conversation with him that evening.

So clear and certain was Littlefield, that he went to his wife, his bosom companion, unfolded to her his convictions; and she replied to him, "For mercy's sake, don't say or think of such a thing as that!"

Now, Gentlemen, is not that somewhat remarkable, that this strong, mighty, overwhelming conviction — that this should have come into the mind of Littlefield, at that time, from that conversation — not from what had transpired elsewhere. *but from that conversation*? Now we have this point of observation: — This witness says that at this period of time his suspicions were strong and overwhelming — thorough, certain, complete, and undoubted. Now mark his conduct before and after that time, and see whether it squares with the statement that he makes, that his conviction was so strong upon his mind that it was only under the exhortations of his wife that he was silent for a moment.

Before that Sunday, on Friday, again and again during the afternoon, he visited all the doors, in order to enter and make fires. He went to the party; he came home late; he went to all the doors at that time of night — and what for? Surely, not to make fires at that time, when the next day was not lecture-day! He testifies that he went to the party, and came home in his party dress; that he went to these rooms, and examined them all.

In a man who had no suspicions, this vigilance was remarkable. You are called upon to note extraordinary circumstances in the prisoner; — note them in the witness who testifies against him. Saturday he watched; Sunday he tried the doors of Webster. Why? Surely not to make the fires on Sunday, in the morning! Remember, no suspicions were then excited.

Chief Justice Shaw. Of what Sunday are you speaking?

Judge Merrick. The first after the disappearance.

Chief Justice Shaw. It was Sunday evening that he had this interview.

Judge Merrick. I am speaking of his conduct before the interview as incompatible with his want of suspicion. Wherefore all this action before the suspicion? Now go to the day after. You see the vigilance before his suspicions were excited: see how it was after. On Monday morning — the very next morning after this deep and awful conviction came upon his mind — when he came to the overwhelming conclusion that the Professor, his friend, the teacher, had been guilty of the most awful crime that had been committed in the community, — he goes into that room; he passes through that laboratory alone, that day, twice — three times, I believe, and once with the police! Yes, three times! He was there four times; three times alone, and with an opportunity to search just as much as he pleased! In the morning, Dr. Samuel Parkman first came there. Mr. Littlefield was not found by Dr. Samuel Parkman, who found, on the contrary, Mrs. Littlefield,

and she showed him up to Dr. Webster's room, through the lower laboratory, and through the door of the laboratory stairs. Littlefield afterwards came in, ascertained that Dr. Samuel Parkman had gone up, went to the door by the laboratory stairs, and entered that laboratory. That is the first time that he enters that laboratory after the suspicion had come into his mind that Dr. Webster had committed this awful crime! Would not his eye naturally have fallen on every object that could have attracted attention? Would his vision have been closed to anything which would startle a man who was put upon his guard by the most grievous and horrible suspicions? And yet, he passed through that laboratory to the upper room, heard a part of the conversation, and turned and went back! Opportunity ample! Dr. Webster he knew to be engaged. His own suspicions most strongly excited! Then he knew how those rooms had been watched and guarded, if he had been as vigilant he says, — and yet, he makes no observations!

Afterwards, Mr. Blake comes there. He goes, to gain admission for Mr. Blake, through this same laboratory; and, finding the door open, goes through it, and makes no observation whatever! Then, again, Gentlemen, that same day, Kingsley, the agent, and Mr. Starkweather, the policeman, go there to gain admission, in order to search in this College. Mr. Littlefield tells you that, many hours before they came there to make search, he had his mind impressed with an ineradicable conviction that Dr. Webster, was guilty of this murder. If that was his conviction, if the police came there, armed with the power of the law, to investigate with regard to this matter, I ask you how a man with such suspicions would have conducted? Would he not have searched? Would he not have watched? Would anything that came within the range of human observation have been overlooked? Would he not have turned the suspicion of the police to everything? And yet, he says that he passed through that building in the most formal and imperfect manner, without a search at all.

Follow this subject up. Before this time, he was watching, and *watching*, and WATCHING, these rooms. When his suspicions were grievously excited, when his convictions were most firm, he made no search at all!

Tuesday came round. The police came again. The convictions had not been eradicated from the mind of Littlefield at all. He goes with the police. Mr. Clapp says, "We do not suspect you at all. We are ordered to search this part of the city. The neighbors will object to our searching their houses, until after we have searched here." Mr. Littlefield says, that he believed Dr. Webster was a murderer; but he would not give a hint to that officer that it was worth while to be a little more vigilant! And when he had got into the laboratory, and that inquiry was made about the privy, and Webster diverted attention from it, then Littlefield did not even say that it was necessary to be more exact! Nay, he was the least observant of all. Mr. Kingsley tells you that he made the discovery of the spots of nitrate of copper; and yet they escaped the attention of Littlefield!

In the nature of things, can it be that this suspicion should have existed, which would make everything deserving of observation, and yet, that Mr. Littlefield did not draw the attention of anybody to the spots, so plain upon every step, or even notice them himself? I say,

the want of vigilance creates a suspicion and distrust in his integrity, which appeals to a Jury for a careful estimate of his testimony.

Again, that same day, in the afternoon, that friendly intercourse took place. When Dr. Webster rung the bell, and Littlefield went to answer it, he gave him a turkey, and Littlefield thanked him. I must confess that I can hardly conceive how he could have taken that order from Dr. Webster, furnishing his Thanksgiving dinner — that food over which he was to be grateful to Providence for all the past favors he had received — and was taking it, as he believed, from the red right hand of a bloody murderer! He took it, thanked him, and they passed down together, towards Cambridge-street, in friendly conversation; and when Dr. Webster asked him where he was going, he said, "To the Lodge." "Then," said Dr. Webster, "you are a Freemason, are you?" "Why, a part of one, they call me." And there the conversation ended, friendly and kind. He had just received from Dr. Webster this present, and was harboring in his heart this suspicion, that Dr. Webster was a murderer!

I do not speak without proof; for Mr. Littlefield tells you that that same night, when he came from the Lodge, he stopped at Dr. Hanaford's, and there spent an hour, during which he breathed out to him his suspicions against his friend, Dr. Webster. Can it be so? Can his conduct be explained consistently with the idea that his testimony is to be taken as solid, substantial truth?

Go to the next day. The next day, in the morning, he watches. All the discovery is, that fire is made in the furnace. He goes away. In the afternoon, he returns. He discovers, in a strange way, the fire in the furnace. In passing through that dissecting-room entry, he says that the heat was so great he felt it upon his face. That is a great heat to arise from that furnace. You have been there, and have seen it; and I think it deserves the careful consideration of Gentlemen, whether he could have discovered it. He felt it hot, and thought the building was on fire. Because the brick was hot, he thought the building was on fire!! He attempted to enter into those rooms. He went to this small furnace. The fire was substantially down. How can this be? How the wall, on the outside, could give out so much heat as to make a person think the building was on fire, after the assay furnace had been substantially extinguished, is beyond my belief. I submit whether it is not beyond yours.

Then go one step further. Mr. Littlefield saw there was a strong fire here. He has this building to himself. His suspicions are vehement. He goes to the hogshead, to see if he can find the body of Dr. Parkman; but, was so observant of Dr. Webster's directions to him of his little affairs in that laboratory, that, — though he believed him to be a murderer, though this fire is strange beyond all things, and he was making it when Littlefield was watching him, — yet, even he will not take off a crucible, and did not do it! He left, without making any more of an examination about the body, except in the hogshead. I believe he discovered the acid at that time. But he did not go to the privy; and he made no effort to get in there, though he thought Dr. Webster had diverted the police from that place!

Thursday, he told his hired man. Then his conduct changes. He is gradually unfolding his suspicions. An axe is sent for to Harlow's and then he takes a hatchet and chisel, to see if he can find the

remains of Dr. Parkman. Why should he go there? It was the privy that Dr. Webster had excluded him from. Why not contrive some way or other to open the door, and get in there; perhaps all this pains-taking of getting in would have been needless. Why not go above? and, if the body was not found above, why not drop a light down the vault? — it would have shown everything. But no! this process was too simple. He goes below, to dig through the wall. But he works imperfectly; he does not accomplish it. Having got the axe from Harlow's, he went to work with the hatchet, but it does not work effectually. And yet, Gentlemen of the Jury, is it not a matter of some surprise — is it not a matter that requires some more explanation than a mere passing word — how it was that Mr. Littlefield had then made up his mind to undermine that College?

I believe the last reward for the body was published coincident with Mr. Littlefield's exertions to break through that wall. Though he disclaims all intention of claiming it, yet I can see no earthly reason why he should not claim it; for the parties are able, and he has been the object of some obloquy. His exertions were coincident with the last reward, which he now disclaims. He went to work with this mighty conviction, and yet he left that work unfinished and incomplete! Was it the conviction that he was upon the very track of the murderer, and that he should find, decaying there, the body of Dr. Parkman, which could, the next day, be carried off to some other place — and yet he delayed for want of tools! He went to the party, and danced eighteen out of twenty times, with the conviction that a dead man's bones were almost under his apartments at home, laid there by the hand of the wickedest criminal that has lived since Cain!

On Friday, he does not rise very early, or go to his work very early. And, what is very remarkable, at nine o'clock, while he is at breakfast, Dr. Webster comes in, and speaks to him, in the same calm, easy manner in which he has spoken to others about Dr. Parkman; inquires after the news; and he then tells him what, but a short time before, he had been told by some one in Dr. Henchman's shop — the story that he had heard of mesmerism, the cab, and the blood. I believe Henchman has been upon the stand, and might have been asked whether Dr. Webster made that statement without authority; but he was not asked. Littlefield says, that there are so many stories flying abroad, that he does not know what to think. And this was the conversation that took place when half the College wall was undermined, and when Littlefield was meditating the completion of it! In the course of that day, what strikes me as most remarkable is, that Mr. Littlefield, in all the long testimony which he gave, never once, from that moment Dr. Webster conversed with him in his kitchen, looked for, or sought to ascertain, where Dr. Webster was. I have looked at my minutes, and I cannot find that, ~~from~~ the time on Friday when this easy conversation took place with him, that Mr. Littlefield even went to the laboratory door, or to the lecture-room, or anywhere else, to see if Dr. Webster was in the room. And, for aught I can see, he told his wife to watch whether Dr. Webster was coming, before having taken the precaution to ascertain whether Dr. Webster was in his laboratory. Now, this is Friday afternoon. Mr. Littlefield goes to work again. He goes then to the Messrs. Fuller — and, Gentlemen, bear in mind

the reason which Mr. Littlefield has given for this work, rather than that of finding the body of Dr. Parkman. He says, he could not go up town, without being told that the body was under the Medical College. He says he went to work there, to satisfy his own mind and that of the public; and yet, he had thought Dr. Webster guilty, and had not failed to mention it on fitting occasions — first, to his wife, then to Dr. Hanaford, to his neighbor, and to Trenholm, and, on Friday, to Drs. Bigelow and Jackson — the latter of whom said to him, "Do it before you sleep." He borrowed, as I was saying, tools of the Fullers. He was engaged in a work as serious as you are at this moment: he was to find the body of a most respected citizen, who had been murdered; he was, by that finding, to charge another respected citizen with the crime of murder, which would consign him to an ignominious grave — and yet, mark his language! He joked with the Fullers about it!

And, at length, Starkweather, and Kingsley, and, shortly afterwards, Trenholm, came. He had then accomplished his work, and perforated that wall. All he had to do was, to apply the force of the bar. A hole, the size of the bar, had actually been made. Two policemen, and the agent of Dr. Parkman came. Starkweather put this question to him, as he has testified, though Littlefield does not mention it — "Has every place in this building been searched?" Mr. Littlefield replies — "Yes, it has, except the privy of Dr. Webster." Remember, that Littlefield has said that the suspicions that the body was concealed there were universal in the community. He told Starkweather that every place, except the privy, had been searched. "Well," said Starkweather, "let us search it now." "No," said he to Starkweather, in substance, "wait till Dr. Webster has gone home; he has got the key." I do not mean to say of the privy, but the keys of his establishment. "Then," said Starkweather, "I will come to-morrow morning." Why not then? Why not have had one disinterested witness, who might, at this moment, have testified about it? Why did he put off Kingsley and Starkweather, when the hole was actually perforated? Throughout the whole, those men had been there with him — those men who could have been vouchers for his integrity.

Mr. Littlefield talked with them about the crime of Dr. Webster. He made no secret, and had no delicacy upon the subject. And yet, when they desired to see beneath that privy, and when the hole was perforated, he sends those men away. And then came his friend, Trenholm, and he told him. But he said, "Away! begone, for twenty or thirty minutes, and come back." This is positively fearful. Why not *now?*

He penetrated that wall, Gentlemen of the Jury, exactly up by the wall on the north side, I believe, of that building; and there, almost in the very front of the hole he made, some few feet distant from the perpendicular line of the privy, were found these remains, with the water dripping on them from the sink.

Gentlemen, I bring to you the facts in the case. If they are startling facts — if they demand explanations from Mr. Littlefield, which cannot be given — I bring them to you only that you may say what ought, in justice and in truth, to be deducted from his testimony. And if the chain be impaired by the want of credibility of this witness — if you, in short, do not believe, because of these inter

nal difficulties, these intrinsic corruptions, in the testimony — then, Gentlemen, this mass of net-work, these great theories and hypotheses of the Government, crumble away, as the cloud and the mist are dispersed in the beams of the rising and refreshing sun.

Gentlemen, allow me to contrast, for a moment, with these considerations, affecting how far you must judge the credibility of Mr. Littlefield concerning the conduct of Dr. Webster, some other facts. Would Dr. Webster, Gentlemen of the Jury, do you think, have done all that has been found to be done in that building, if he had been the perpetrator of this crime? Do you think he would have multiplied proof, and made proclamations to invite suspicions upon him? That is unnatural. He would not have done what he never did before. Gentlemen, is it likely he would have scattered these remains, in order that they might have been most readily found? — that he would have made a fire, so as necessarily to attract attention? Why, you find improbabilities starting upon the testimony of Mr. Littlefield. You find corresponding improbabilities in the conduct of Dr. Webster.

And, let me approach, Gentlemen, those considerations which have the strongest presumptive tendency to manifest the innocence of Dr. Webster. First, Gentlemen, where are the traces of crime? Where are the marks of blood in this laboratory? The physicians have told you the quantity of blood in the human body. Has blood been found? A half a dozen spots on the left side of the pantaloons, and two or three upon the slippers, which have been in that room for years! The medical gentlemen say they cannot tell how long those spots have been there. That is all you can find. These clothes have been where blood is sometimes used, as Prof. Horsford testifies; and half a dozen spots are found, and that is all. Do you think they came from Dr. George Parkman? And, except these traces, which might have been there before, there is not to be found the slightest mark of violence there.

Now, Gentlemen, there is no mark of violence — either of blood, of stain, or of instrument. Nothing! The knife which is found is untarnished; the Turkish knife contains no blood. The floor is not marked with blood. There is no indication of violence! and yet, it is said, that, at noon-day, two muscular men met — muscular and strong, though in advanced life; — Dr. Parkman, a vigorous man, and somewhat powerful; Dr. Webster, such as he was; — that this mortal struggle occurred; that a mortal blow was given, and no blood was found, though the pavement was taken up, though the walls were searched, though the garments were ransacked, — and no blood found, save what has been mentioned, which might have been there years before!

The overalls were carried away, Littlefield says; and yet, Horsford testifies he found them there, after he came. The policemen used them for pillows; — I do not believe they rested their heads on blood. Professor Horsford has examined them, and he finds no blood. Is it possible that this crime can have been committed by Dr. Webster?

Again, if it is done, is it possible that he has done it without preparation? He is a chemist; he understands this power of his over the human muscle and the human bone. If he had meditated this murder, he would have dissolved to liquid every inch of Dr. Parkman's body and bones, in proper vessels, cut up as it was, in much less time

than he had. And if he had contemplated this murder, would not the most effectual means have occurred to him? Would a man like Dr. Webster have been hacking and mutilating the remains of a mangled victim he had murdered, when he had by his side the means of destroying the identity in a few brief hours; or when he might have taken the key from the side of the dissecting-room vault, cut up his body to pieces, opened the trap-door, and put it down where it would be unsuspected?

There cannot be an improbability, in my judgment, greater than this supposition, that he could have committed the murder without destroying all traces of the body. It overcomes theories, and hypotheses, and conclusions, and deductions, from these surrounding, and, as the Government think, overwhelming masses of circumstantial evidence, — which are met by the fact, that there are no marks of violence, no proofs of crime, and a total absence of all means of destruction which he could have used. While, on the other hand, the imperfect, incomplete, insufficient effort to destroy a part of this body, by putting potash upon it and holding it over the fire, showing the work of an unskilful man, proves that it must have been an unknown, inexplicable being who did the work, which the Government are now seeking to impose upon my unhappy client.

Nay, more, Gentlemen! Nay, more! These improbabilities, that Dr. Webster could have done this thing, grow stronger and stronger, the more evidence is presented for your examination. At every turn you take, at every movement of advancement, these improbabilities are multiplied.

Follow Dr. Webster from that place. See him with his family that evening. The first part of it is spent as usual, with his wife and children. Then see him accompanying those children to a neighbor's family hearth; then going by himself to Professor Treadwell's, and spending two or three hours in social conversation — not absent-minded, not full of fits and starts, not frightened at the sound he has made, but self-possessed, calm, social, as usual. Were ever human nerves made *that could do this?* I pray you, Mr. Foreman, I pray you answer me. When life is jostled even when some little event occurs in our daily walk, — a disappointment in our affairs, the treachery, it may be, of a friend, the outbreak of some calamity falling upon us, — our families, when we return to the fireside, note that something has happened. Will not the tender and observing wife say to her partner, What now?

> "What cloud upon your brow?
> What fever in the brain? what anguish at the heart?"

Do the children, loving and devoted children, watch and note the first variation in the parent's smile — in the parent's cheerfulness; and can, *can* it be, that Dr Webster should have committed this daring, attrocious, unspeakably great crime, and have then been with his wife, and children, and friends, unmoved, unaffected by the issue which has been charged against him? To be so, he was more or less than man. But, like you and me, he *was* a man.

I pray you, Gentlemen, weigh this, weigh that, when you are considering these circumstances. The next day, in the morning, he was about to visit the family of Dr. Parkman, because, the night before, he had seen in the public papers — which I might produce here, but the fact is too well

known, it is unnecessary — he had read in them, that George Parkman was missed, having had an appointment with an unknown individual; so that Dr. Webster knew that the friends, the family, and the community, did not know where Dr. Parkman was. He had but to keep silence, if he had committed this crime, and he had every reason to believe that universal darkness would rest upon it; and yet, Gentlemen, with that full knowledge, but with a conviction that the crime had nothing to do with him, he comes to Boston for the express purpose of making known that he was the man. He saw Mr. Blake first, and told him; he saw Dr. Francis Parkman and his family, shortly afterwards, and told them: yet, Gentlemen, all these communications are now to some extent turned against him.

Mr. Blake has represented that Dr. Webster exhibited something of agitation; Dr. Francis Parkman has, on the contrary, represented something of over coldness. With one, whom he held by the hand, he seemed too warm; with the other, oppressed with affliction himself, not at the moment in the best state of mind for observation, too cold and formal: and both the warmth with one friend. and the formality with the other, are now circumstances brought against him, under which Dr. Webster is in danger of suffering, unless that danger be avoided by the calm and sober reflections of the Jury. That is to say, they are to judge upon a new case in the affairs of men. How to treat relatives, in such a case, I think no man can tell.

Dr. Webster came to tell his story, and he told it as well as he could; and I submit, that no prejudice is to come to him now, because Mr. Blake thought him too warm, or Dr. Francis Parkman deemed him too cold. Go with him further, and you find that he called on the City Clerk, at East Cambridge, and found that the mortgage was not cancelled; went to his study; was found there by the police; went home; and was lecturing to his class on Tuesday, while these bleeding monuments of crime were just, as it were, by the side of him. *Can it be so?* From day to day, Gentlemen, his avocations show him receiving his friends, visiting his friends, occupying himself at home, calling at Fuller's and writing the check, and speaking of Dr. Parkman; being at the apothecary's, where he is told this story of the cab; at the tinman's, where the box is ordered, and where he speaks of the story of which he has been told everywhere, entirely easy and unaffected; and all this time, as they say, this forlorn man, if he be the villain they say he is, is as calm and quiet as his brethren of the profession, and as clear in his mind, and regular in his actions, as the sun in the morning. Gentlemen, it is not possible!

On Friday, the 30th of November, he was with his family. In the evening, came the officers and ministers of the law. They came, indeed, without authority — perhaps without authority which could wholly vindicate them, but in the belief that they had the right to make the arrest, — acting, doubtless, in perfect good faith. The ministers of the law — Clapp, Starkweather, and Fuller — went to Dr. Webster's house, to make the arrest, on the discovery of the remains in the vault. Dr. Webster is found tranquil. Mr. Clapp, who knows him, addresses him, and tells him that further searches are to be made at the Medical College for Dr. Parkman, and he is required to aid. "Very well," said he, "I will go;" as candid as you or I could be.

"Let me step in, and put on an outer garment." As they were entering the carriage, he said. "Stop a moment; I have left my keys; I will get them." "No matter," says Clapp, "we can get in very well."

They enter the carriage. A free and easy conversation takes place. They speak of Dr. Parkman; Dr. Webster speaks freely on that subject. The conversation changes. They converse on other topics, — the railroads, — and so pass Mrs. Bent's. Her place is spoken of. They keep up a calm and quiet conversation all the way to Boston; and this, on a representation that these officers had made, that they were going to search the Medical College.

Now, suppose that Dr. Webster knew that he had committed this crime. If he had committed it, he knew it. His rooms had been twice searched. He finds three officers, come late in the evening, to search again, at that time of night. If he had been guilty, do you think, Gentlemen, that his nerves would have upborne him then? I know not the man that has the power of resistance, under such circumstances. Innocence could have carried him through; guilt would have prostrated him, because guilt would have assured him that he should be carried to the exposure of his guilt. And yet, he moved as calmly and as tranquilly as when he gathered his family around his daily table.

Allusion was made, in the conversation which we have mentioned, to the discovery of part of the garments of Dr. Parkman. They passed the second street leading from Cambridge-street. Dr. Webster says, "You are going wrong; you have passed the street to the College." Mr. Clapp says, "The driver is a green fellow, but I guess he will bring us up right at last." Dr. Webster is still calm. They reach the jail. Mr. Clapp alights, and asks the gentlemen to descend for a moment. They enter the jailer's apartment. Mr. Clapp enters the inner apartment. They all enter; and then Dr. Webster looks round, in the dim darkness of the jailer's inner room, and asks, "What does this mean?" Mr. Clapp replies, "It is no longer of any use to impose on us; the body of Dr. Parkman has been found. We have been sounding round the Medical College. We shall search no more; and you are arrested as his murderer." Dr. Webster started back, with the simple exclamation, "What! me?" "Yes — you!" His voice sank, as his heart did. "He attempted," said Mr. Clapp, "to articulate. He began to speak to me something about the crime; and I told him not to speak to me of that. He waited a little while, and asked that his friends, most respectable Mr. Dexter and Mr. Prescott, should be sent for; and I said, They cannot see you to-night."

Here is the man deceived. He knew he was deceived. They told him one thing, and meant another. No matter that it was for good and honest purposes — they did deceive him. And when he spoke, Mr. Clapp stopped him, and said, "Don't speak to me of your crime." Then said Dr. Webster, "Let my friends speak for me." "No," replied Clapp, "you cannot see them to-night." And he became as a child at its mother's breast — helpless! hopeless! — and he exclaimed, "My children! my children! what will they think of me?" Not, "How shall I escape?" — but, "My children! my children!"

He was left in this condition. A *mittimus* was put into the hands of the officer; and he was alone, in faintness of body, in feebleness,

bowed and overcome as he was by the deception which had been used upon him — his faculties disordered — his mind broken and shattered by the shock which I know not how any man could bear. He spoke to Starkweather; who responded, "Don't ask me; it is improper for me to tell you;" — and he sank back in his chair, scarcely able to sustain himself, while a few short ejaculations fell from his lips, which instantaneously were put down on paper. And the very words he uttered in that state — awful, overwhelming, cruel state of mind! — are brought here by that officer, and detailed to you, to work out his conviction, closing with this most significant language, "No person has access, but the porter who makes the fires," in answer to the question put to him. Then he exclaimed, "O, I am a ruined man!" — language put into his heart and understanding, and almost into his lips! This police officer calls his attention to the man who had access to his room; and Dr. Webster, under this affliction, overwhelming and ruinous, was pointed to the janitor by the police officer, who did not tell him that he was wrong when he asked him, "Who has access to your rooms?" And the exclamation follows, "I am a ruined man!" As if he had said, "Here I am, under arrest; they will not suffer me to speak; they will not suffer me to see my friends. There is a charge upon me; I know not on what it rests; I have been deceived. O, my children! my children! — what will become of them?"

It occurs to his mind, on the question put to him by the police officer, "Who has access to your room?" — "I am a ruined man!" *Is that confession*, after such a conversation as that, and under such circumstances? Will you say that the Government have the right to consider such a confession possible?

Go with him one step further. Mr. Parker comes to see him. The prisoner, careless of his position, weeps for his children. Mr. Parker says to him, "Another family have been in distress for a week past;" and silence only follows — silence, only with some slight exclamations from the prisoner. Yet he willingly accompanies the officer, to visit the scene of the alleged murder. His rooms are broken open; and I call your attention to one great fact. He was helpless nearly all the time, from the moment that this great charge was made. But from all the witnesses you have it in testimony, that, if he became calm for a moment, it was not in the inner but upper laboratory. Remember, Gentlemen, the occasion when he became calm. Remember that at that time the remains had not been exposed to Professor Webster. He had not been told where they were, or where they were to come from. But then he was most composed; — and when was that? It was at the time, Gentlemen, that they were asking him for the key of the privy.

Professor Webster did not know that any hole was dug. If conscious of guilt, when they asked for the key of the place where he had secreted these remains, would he have been calm almost at that moment alone? A wrong key was tried, and brought back to him. He then said, "That is the key of my dressing-room." There, Gentlemen, was a moment of calmness. That was at the very place and time when, according to the theory of the Government, they were to go to the identical spot where Dr. Webster had deposited these remains. Yet he was calm, comparatively. He went below, and the fit was on him. And, Gentlemen, from that state and condition in

which he was, he did not recover again. He said no more. He was overcome. He was the victim of circumstances. He was unmanned. It would be as unjust to take the falling word from his lips, at that time, as it would be to go to the houses of the insane, and ask for the ravings of the maniac, and carry them to the Court-house — that the victim might be sent off to an ignominious execution. He was carried to the carriage, and fainted. Mr. Andrews said a kind word. I felt that it was so, when the witness was upon the stand; and I thanked the sheriff for having a keeper with so much feeling. He spoke a kind word to this suffering prisoner. But he was scarcely conscious of it. A few broken sentences escaped him. "You pity me; what for?" "Because of your excitement," was the reply. "Oh, that is all." And he subsided again, and said not another word. His night was cheerless — his cell solitary. It was but an indifferent place to a man whose mind was so harassed, and his feelings quenched.

The next morning he was found in this same overwhelming prostration. A few hours partially changed him. He awoke to new life, and, with the little strength that he had, in the first moment of dawning reason, from this night of darkness, and agony, and shame, and mortification, and distress, — with the first dawning light of reason, he uttered, in simple but expressive language, the whole of his defence: — "I do not believe," said he, to a man whom he was for the first time in sixty years to call his jailer, — "I do not think that these are the remains of Dr. Parkman; but I am sure I don't know how in the world they came there." Gentlemen, that is his defence. He cannot tell you how they came there; he asks you, Gentlemen, to give care and scrutiny to those surrounding and pressing circumstances. He asks for leave, under the ægis of the law of his country, to present himself, with that reputation which sixty years of life has given him. He brings the community around him, from the president of the university to the mechanic at his bench. All classes cluster around him, and tell you what he has done.

And, Gentlemen, *it is* the rule of law, that in cases of doubt, where evidence is complicated, where it is uncertain what conclusions shall be drawn from these mystifying masses of circumstantial proof, — it is then that the toil and the virtue of life come as a protecting shield, to say that he who in life has embalmed virtue shall at the last be saved by it! His character is here. He brings it, and lays it before you; and with it he brings all that he has done within, and around, and near, these awful remains of death, and of mutilation of the human form. He implores you to weigh them well: and he asks only that your consciences, when your last day's work in this Court shall be done, shall be pure and free; that you shall have given weight to all his objections to the evidence of the Government; that you shall look to this *alibi*, which appears overwhelming in its accuracy and positiveness; that you shall save him, in the hour of his affliction, to be returned to the world again, and yet arrive to that humble home of which no voice can adequately tell the sorrows that now sit there, or the joy that may yet be imparted to it!

God grant him, in this day of peril, a good deliverance! And may He grant it to you also, that you shall never reflect upon your final determination here, but with inward peace and inward satisfaction, that shall sustain your life, and crown you at the last in death!

ELEVENTH DAY. — *Saturday, March 30th.*

CLOSING ARGUMENT OF HON. JOHN H. CLIFFORD, ATTORNEY GENERAL.

May it please your Honors, Mr. Foreman, and Gentlemen of the Jury:

In a cause, Gentlemen, of the magnitude and the interest of the one now before us, I expected, and doubtless you expected, that everything which human power could bring to bear upon it, in order to exonerate this defendant from the charge which the Grand Jury of this county have preferred against him, would be done — that all that professional fidelity, all that professional skill and adroitness, all that human eloquence and ingenuity, could possibly advance in his favor, would be done.

And, Gentlemen, in that expectation I have not been disappointed. The transcendant ability which characterized the closing argument in his behalf yesterday, shows that whatever conclusion the evidence in this case may compel you to come to. there has been nothing left unsaid or undone, which, consistently with the truth, could have been said, or could have been done, for this prisoner.

But, Gentlemen, I had, if not another expectation, at least another hope. I expressed it to you, when I opened this case, a fortnight, nearly, ago: that when the evidence which the Government had to array here before you against this unhappy man should have been all presented, I did hope that he could furnish some explanation of the terrible circumstances which had weaved round him a web that seemed to be then irresistibly contracting to his doom. I expressed that hope, Gentlemen, I may say, with the sincerity of a compassionate heart. I expressed it, as a citizen of this Commonwealth of ours, who feels an interest in the great interests which are represented by him. And, I grieve to say to you, that after all that has been done, and all that has been said, that hope has been utterly disappointed.

Why, Gentlemen, I call your minds back to the statement with which this case was opened; a statement of what the Government expected to prove, — made, I submit to you, as I submit to the world, with a degree of moderation that indicated how sincere that hope was, in my bosom. I call your minds back to that statement of the outline of the proof which I expected to put in here: and I now ask you, upon your consciences, to say whether that outline has not been entirely filled up; whether a single statement was made which has not been proved; whether the inferences which I then forbore to draw from those facts are not now pressing upon your minds, with a force that cannot be resisted.

I ask you, then, to consider how all that evidence has been met. We have waited long days, and weeks, and months, for an explanation of these facts. This prisoner, although he has been the inmate of a cell, has not, you know, Gentlemen, been, in the language of his Counsel, a forlorn and forsaken man, unaided, and unable to prepare himself to meet the testimony of the Government. No! far from it. He has not, as my friend, the opening Counsel, asserted here, been compelled to sit by, the victim of prejudice in the public mind, arising out of public rumor, and waiting

patiently till the day of his deliverance should come, in a Court of Justice, by making his explanations and showing his proof.

"A victim of prejudice," Gentlemen? I put it to you, whether that statement has any foundation here. I ask you, whether the very opposite state of things has not existed in a degree unprecedented in our history; whether there was ever a man against whom the *prima facie* proofs that had met the public eye had sunk down so deeply into the public heart, who has had such forbearance shown him. There has been, from beginning to end, a degree of reluctance that is unprecedented, to admit the possibility of his guilt.

Gentlemen, it is a strange and eventful history which we can now look back upon, from the time that these mutilated remains of George Parkman were found in the premises of the defendant, — ay, and under his lock and key. It was the subject of an examination before a Coroner's Jury, which was secret. But, Gentlemen, his Counsel here will do me, as the representative of the Government, the justice to say, or to assent to what I say, that before this evidence which was taken down before the Coroner's Jury had been read by me — before I ever passed my eyes over its pages — it was placed in their hands, for the purpose of enabling them to meet everything that was contained in it, and prepare their client for his defence.

It does not, let me say to you, lay in the mouth of this prisoner, or his Counsel, to come here and complain of any course which has been taken, respecting him or his case. Never, I venture to say, was a man put upon his trial for a crime that affected his life, who had received such consideration from the Government representative as he has received from me.

I am not aware that there has existed a single fact that has not been fully communicated and freely exhibited to the Counsel for the prisoner, to enable them to investigate, explain, and answer it, that, when they came before a Jury of their country, they might be enabled to say, "We have known everything that the Government have to prove; we have prepared our answer; we can explain, and here is the explanation."

Gentlemen, so it has stood: and when allusion was made to the fact of his being in that cell friendless and unaided; that there had been a secret inquest, when he was not present; that there had been afterward a secret investigation by the Grand Jury, where he was not represented, — did it occur to you to reflect, as that statement was made by the Counsel, that between those two investigations there was another occasion, when he was present, when he was represented by the ablest Counsel that the ablest bar in New England could furnish him? — that he then, either with or without their advice, chose, not only to keep his own mouth shut and sealed, but to say to the Government, to say to the world, "I am content, not only not to offer proof in exculpation of myself, but I am content not to ask even for what proof there is against me"? Gentlemen, between these two investigations, which have been the subject of almost a complaining and reproachful remark, this prisoner was brought into this building, before another tribunal, for a preliminary examination.

And, Gentlemen, while there, upon the supposition that he was entirely an innocent man, intelligent as he doubtless is, what, Gentle-

men, would have been his course? Why, to demand of the Government to show their proofs!

I put it to the consciences of every one of you, if you were seized by an officer of justice, and were brought up upon the most heinous and revolting charge that could be made against a man, would you not turn round, after you had had twenty-four, yea, forty-eight hours of reflection, and time to recover from the first shock with which it struck you — powerful, even as the Counsel has represented, though that first shock may have been — I put it to you, whether you would not have demanded that the Government should show the proofs upon which they attempted to charge you, an innocent man, with a crime like this. Would you have said — I care not whether with the advice of Counsel or without it — "I am content to go into close confinement, to wait until the Government shall find its convenience and its pleasure to try me, and to suffer this good name which I have been building up for sixty years" — as the Counsel have told you — "to be blasted, and the whole civilized world to have that name upon its lips, in terms of reproach and execration; to leave my family to suffer the torture, and suspense, and agony, which must attend a charge upon a parent and a husband, like this, remaining unexplained, and without an attempt at explanation"?

It has come to be a point of consideration, in this case, that such a fact as that existed. And, more than that, Gentlemen! The time has now come when that explanation was to be made — when passion was to subside — when he was to enter a Court of Justice, and feel that, before a Jury of his country, he could be secure.

And now, what is that explanation? I call your attention to the fact, that the evidence which he has put in here applies to but four propositions. And I call your attention to the further fact, that, upon that evidence, such as it is, have been founded four hypotheses, put before you by his Counsel; and it is my purpose, to put those two things together.

In the first place, in answer to all the evidence which the Government has produced here, he has called the witnesses to his character. That is a point that never was in controversy, namely, that he had an outside reputation; how well founded in his real character, the other evidence in this case must determine, to a considerable extent.

The second point has been an attempt to show (I am now speaking of the evidence he has offered here) that for him to be locked up in his laboratory is not an unusual thing, — an attempt, from one witness, which has entirely failed, and which has been met by other testimony, independent entirely of that which has received the harsh comments of the Counsel.

His evidence then goes to establish a third proposition.

Chief Justice Shaw. What was the first?

Mr. Clifford. The first was the witnesses to the character; second, the attempt to show that his being locked in his laboratory was not an unusual thing. One witness only to that — Mr. Eaton, the painter. The third attempt was to show his own conduct, and his whereabouts, during the week which intervened between the disappearance of Dr. Parkman and the finding of his remains. That is the third proposition, as offered to be supported by the proof to which the evidence applies. And this case is to be tried upon the evidence.

The fourth proposition is, an attempt to answer this whole case of the Government, by showing that after Dr. Webster and Dr. Parkman were together, on the 23d of November, Dr. Parkman left him, and was seen abroad in the community after two o'clock of that day. This is absolutely all.

Then, upon that evidence there has been an attempt to raise certain hypotheses, which I shall have to consider in another connection; but to which, when I do come to consider them, I shall ask you to apply the evidence in the manner that I have indicated.

Now, in a state of facts like these, as presented to a Jury of the country, I think there is one proposition which cannot escape our notice. The constitution and government of this Commonwealth has, as its *highest object* — as it is the highest object of all organized civilized society — the protection of human life; and, under that constitution and government, we have a system of law, which is intended to carry out that purpose.

If a case has ever arisen which is to test and try the value of that constitution, and of that system of laws, it is the case now before us. And if ever the great and high responsibility of applying that test was confided to human minds, it is now confided to you.

Why, how does this case stand upon the proof? Is not all the charge attempted to be answered by the fact that Dr. Webster, this prisoner at the bar, moves in a different sphere of life — that he has been subject to a different influence — that he has had a different experience, from those who are ordinarily seen in the prisoner's dock?

We are now to know whether the law under which we live is, or is not, like that Divine justice whose character it is our law's humble function to imitate and follow — whether it is a respecter of persons — whether it is competent to hold the weak and the impotent in its grasp, but is itself impotent when the high, the influential, and the powerful, are charged with its violation. It is an old complaint, Gentlemen —

> "Plate sin with gold, and the strong lance of justice
> Hurtless breaks; clothe it in rags,
> A pigmy straw can pierce it."

But I thank God that we have here a state of society, a system of law, a sense of justice, to which no such reproach as that can be applied. Why, is there any doubt that George Parkman — the original proposition with which I started before you, when we commenced this case — that George Parkman, a highly respected, almost universally known citizen of this metropolis of New England, a man of large affairs, a man of extensive connections and interest, has been murdered? Ay, and, by a most remarkable coincidence, is there any doubt in your minds, now, after hearing all that has been said by the prisoner's Counsel — whether he were the perpetrator of it or not — that Dr. Parkman was murdered in the building of an institution which owed its erection to his munificence? — that, in the ordinary avocations and business and intercourse of life, he went out from his home to meet his sudden and fatal doom?

And, Gentlemen of the Jury, if that fact be established — no matter who was the perpetrator — if the laws of Massachusetts are impotent

to ferret out, and detect, and convict, and punish the perpetrator, — then the sense of security and of safety, which belongs to us as the members of a civilized society, is gone forever. We had better go back, as we shall certainly be driven back, to that state of anarchy and of barbarism, in which every man's wrong is avenged by his own right arm.

And now I come to consider the improbability that a false accusation should be made against a man like this prisoner. Thousands of eyes, Gentlemen, since that fatal event, which struck into and startled the heart, not of this community alone, but of the whole civilized world, have been opened, every circumstance has been weighed, every man has been watched — and the vigilance of our police, the keen eye of justice, stop here. If that be a false accusation, that of itself is another marvel and miracle, greater than any that has been presented as a mystery by the prisoner's Counsel. The complaint has been here that there has been no direct evidence — strong as the Counsel has admitted this mass of circumstantial proof to be — no direct evidence that the fact charged upon this prisoner is true; that the act committed by him, as charged in this indictment, was witnessed by any human eye, and that that witness has come here upon the stand to say so. Gentlemen of the Jury, how many murderers think you have been punished, or ever will be punished, if a Jury are to wait until direct evidence of an eye-witness is to be furnished to them, in order to remove all reasonable doubt from their minds? What degree of security will there be in society? How can we go to rest upon our pillows, feeling that the law gives us any protection, if a position like that is to be maintained. When crimes like these are to be committed, you will consider that men take no witnesses with them; they avoid the sight of all eyes, but that all-seeing Eye, which sees in the darkness as in the light, but which they then forget.

Let us consider here, for a moment, what the nature of this evidence is. Having considered its nature and character, and having furnished such authority, on that subject, as seems to meet and control all the suggestions which have fallen from the learned Counsel in relation to it, I shall then state, in a brief, and, I hope, intelligible manner, the law as applicable to the offence itself, and to the indictment which charges it. I shall then endeavor to proceed to satisfy your minds that no other person than this prisoner could have committed the act. Having, in the first instance, considered the evidence that the act has been committed, I shall ask your attention to the evidence which goes to fasten and fix the charge upon him.

Now, Gentlemen, what is the nature of the evidence upon which you are to arrive at your conclusion? It is circumstantial. So, I think, it must be said, is almost all evidence. We are not here, Gentlemen of the Jury, dealing with or expecting to find absolute verities — pure, absolute truth. That, Gentlemen, belongs not to fallible man, but to the omniscient and infallible God. And we are here to exercise such instrumentality as, under our system of law, and in our state of intelligence, we may be able to use for eliciting the truth. And when we have arrived at a conclusion, through those instrumentalities, and our reasonable doubts are all removed; then, our minds

being satisfied, even if we err, no such terrible consequences to us can follow, as have been shadowed forth in the argument of the opening Counsel.

What is circumstantial evidence? Is it so much less satisfactory and strong than the positive testimony of a witness? Why, Gentlemen, the testimony of a witness is not dependent entirely upon his integrity and veracity. The value of it, certainly, is not entirely dependent upon these. It is, in no inconsiderable degree, dependent upon his intelligence, his powers of observation. But if there is a class of facts existing, which, combined, lead the mind, by the stern and inflexible chain of logical sequence, to a necessary result, the mind must give to it its credence.

Let me, in much better language than I can use, and with a wisdom which I may never hope to equal, give you the exposition of this matter, from one of the ablest and most learned Judges now gracing the bench of a sister State. I propose to refer the Court to the case of the Commonwealth against Harman, and the charge of Chief Justice Gibson, in that case, to the Jury.

It was a capital case, as this is. It was a case of great interest — of a mother for the murder of her child. And the Chief Justice of that Commonwealth, Pennsylvania, who is now an honor and an ornament to the bench, in charging the Jury, addressed them, upon this subject of circumstantial testimony, in these words:

"I shall confine my remarks to the distinctive character and value of the testimony. No witness has been produced who saw the act committed; and hence it is urged for the prisoner, that the evidence is only circumstantial, and consequently entitled to a very inferior degree of credit, if any credit at all. But that consequence does not necessarily follow. Circumstantial evidence is, in the *abstract*, nearly, though perhaps not altogether, as strong as positive evidence; in the *concrete*, it may be infinitely stronger. A fact positively sworn to by a single eye-witness, of blemished character, is not so satisfactorily proved, as is a fact which is the necessary consequence of a chain of other facts, sworn to by many witnesses, of undoubted credibility. Indeed, I scarcely know whether there is such a thing as evidence purely positive. You see a man discharge a gun at another: you see the flash, you hear the report, you see the person fall a lifeless corpse; and you *infer*, from all these circumstances, that there was a ball discharged from the gun, which entered his body and caused his death, because such is the usual and natural cause of such an effect. But you did not see the ball leave the gun, pass through the air, and enter the body of the slain; and even testimony to the fact of killing is, therefore, only inferential, or, in other words, circumstantial. It is *possible* no ball was in the gun; and we INFER that there was, only because we cannot account for the death on any other supposition. In case of death from the concussion of the brain, strong doubts have been raised by physicians, founded on appearances verified by post mortem examination, whether an accommodating apoplexy had not stepped in at the nick of time, to prevent the prisoner from killing him, after the skull had been broken in pieces. I remember to have heard it doubted in this Court, whether the death of a man, whose brains oozed through a hole in his skull, was caused by the wound, or a misapplication of the dressings. To some extent, how-

ever, the proof of the cause which produced the death rested on circumstantial evidence.

"The only difference between positive and circumstantial evidence is, that the former is more immediate, and has fewer links in the chain of connection between the premises and conclusion; but there may be perjury in both. A man may as well swear falsely to an absolute knowledge of a fact, as to a number of facts, from which, if true, the fact on which the question of guilt or innocence depends must inevitably follow. No human testimony is superior to doubt; the machinery of criminal justice, like every other production of man, is necessarily imperfect; but you are not, therefore, to stop its wheels. Because men have been scalded to death, or torn to pieces, by the bursting of boilers, or mangled by wheels on a railroad, you are not to lay aside the steam-engine.

"Innocent men have, doubtless, been convicted and executed on circumstantial evidence; but, innocent men have sometimes been convicted and executed on what is called positive proof. What, then? Such convictions are accidents, which must be encountered; and the innocent victims of them have perished for the common good, as much as soldiers who have perished in battle. All evidence is more or less circumstantial, the difference being only in the degree; and it is sufficient for the purpose, when it excludes disbelief — that is, actual and not technical disbelief; for, he who is to pass on the question is not at liberty to disbelieve as a juror, while he believes as a man.

"It is enough that his conscience is clear. Certain cases of circumstantial proofs to be found in the books, in which innocent persons were convicted, have been pressed on your attention. Those, however, are few in number, and they occurred in a period of some hundreds of years, in a country whose criminal code made a great variety of offences capital. The wonder is, that there have not been more. They are constantly resorted to, in capital trials, to frighten Juries into a belief that there should be no conviction on merely circumstantial evidence. But the law exacts a conviction, wherever there is *legal* evidence to show the prisoner's guilt, beyond a doubt; and circumstantial evidence is legal evidence.

"If the evidence in this case convinces you that the prisoner killed her child, although there has been no eye-witness of the fact, you are bound to find her guilty. For her sake, I regret the tendency of these remarks; but it has been our duty to make them, and it will be yours to attend to them."

I now come to the consideration of points of law upon which I shall address myself to the learned Bench in your hearing. They are all involved in the inquiry which you are now making. The ground that we take, may it please your Honors, upon the law, is established upon well-settled principles of the common law, as recognized in the case of Peter York, and subsequently affirmed by this Court in the case of Washington Goode, and more recently in the case of Knowlton. Unless it appears, by a preponderance of the testimony, to have been done under reasonable provocation, such as the law recognizes, malice is to be presumed; and, malice being presumed, whether there is express malice shown by the proof or not, it is murder. Then, Gentlemen, the distinction that was taken, and very properly taken — and, upon the authorities, fully

illustrated by the opening Counsel — between express malice and implied malice, I do not intend to go over, because I entirely concur in every proposition stated to you on that subject, in regard to express malice. If you find there was anything of premeditation with regard to this prisoner, that ends the inquiry of this case. That fixes it, by all the authorities, upon the very ground taken by the prisoner's Counsel, to be a case of murder. But, if you should not be satisfied of that, still, the law presumes, in the absence of any controlling proof, that there did exist the other species of malice, namely, implied malice.

Therefore, it is quite immaterial, in sustaining this charge against the prisoner, whether the Jury are satisfied of any proofs of the premeditation or not, unless they are, on the other side, satisfied upon the proof, that, when those two men came together, there was not merely exasperating, irritating and provoking language, but that there was, on the part of George Parkman, a provoking blow, which led to another from the prisoner, that was fatal to his adversary. Because, upon this matter of implied malice, the provocation which the law recognizes cannot be a provocation of language, no matter how exasperating, how irritating, it may be. Therefore, if exasperating words were used, and a sudden blow was given by the prisoner with an instrument likely to cause death, then, Gentlemen, he is as much guilty of murder as if he had prepared and planned it for months before, and beguiled the party to the place, and there carried into effect his previous premeditated purpose. Hence, we take no exception to all that matter of law put into the case; and I only refer to it now, to say that you must have felt, as I did, a painful disappointment, when this case was opened by the defendant's Counsel — that, while we were anxiously looking for an explanation of facts, we had the extraordinary spectacle of the Counsel for the prisoner devoting two hours and five minutes to the discussion of the law, and ten minutes to the presentation of the facts.

All the nice subtleties and refinements of the law of homicide, about which there is no controversy, and in which I agree fully and entirely with the learned Counsel, were gone into with a degree of clearness and ability which marked the accomplished lawyer, and were presented for your consideration to avoid what seemed to me the unfortunate and meagre array of his store of facts being exposed to the Jury. But, Gentlemen, that exposition had to come. I have already adverted to the classes of facts upon which he relied.

Exception has been taken, Gentlemen, to this indictment; or, rather, perhaps I ought not to say that. I do not know as exception is taken to the indictment. But, although it is said that the Government may charge, in the various modes in which they have charged, in the first three counts, a homicide committed by the prisoner, — yet, they are bound to prove, in this case, to the entire satisfaction of the Jury, that the homicide was committed in one or the other of those modes; and that the fourth count of this indictment, in which the Grand Jury have charged upon this prisoner, that, by some means, instruments and weapons, to them unknown, he did commit murder, is not such a count as can be sustained in a Court of Law.

Gentlemen, if that were so, we ought to have been saved the long and anxious labor of this trial. If that were so, and the law were

open to that reproach, I think this learned Bench would require that very conclusive authority should have been produced to satisfy their minds of their imperative duty so to rule. Why, take the very illustrations of the Counsel here — and I could not conceive of more cogent and effective ones — take the illustrations which he presented in support of that monstrous proposition — that if a man is so scientific in his deeds of blood as to be able to conceal the mode or the means by which he consigns his brother-man to a sudden and a violent death, although the fact may be proved upon him as clear as the day-light, he cannot be punished, under the laws of Massachusetts! That is a most extraordinary and monstrous proposition. It may be that this Honorable Court may say that this is the law; but, the illustrations show us to what such a construction of the law would lead us.

Why, it is suggested that the lasso might have been cast around his neck. Was there any evidence before the Grand Jury which could justify them in saying, upon their oaths, that this was the way in which the murder was committed. It is perfectly true, that a galvanic battery might be so prepared as that, when a man is walking over the wires, he shall be prostrated, and deprived of consciousness. But we must have evidence of it.

The plain proposition is, simply, as laid down by Hawkins, 23d chapter, 84th section, of the second book, that, "in drawing an indictment for murder, or any other capital offence, the pleader must set forth the nature of the facts as specially as the circumstances will admit."

Now, if it was known to the Grand Jury how the act was done, of course, they must set it forth. If they should undertake, through their accompanying officer, to charge that the homicide was committed in a way and manner to them unknown, and afterwards, when the party is put upon his trial, it should appear — and it might appear, for the Jurors may be called to testify to such a point — that he was stabbed, or strangled, or his life destroyed in any other way, and this was known to them before the indictment was drawn, then it could not be maintained. And that is the protection of the prisoner. "The nature of the facts" would not have been, in such a case, "set forth as specially as the circumstances admitted."

I will give you but one illustration, and I submit it to the Honorable Court, as an evidence of the absurdity of this proposition. I derive it from the case itself. Suppose, may it please your Honors, that Dr. Webster, with premeditation, had enticed Dr. Parkman into his laboratory, and had there, in a scientific manner, in some way to the Jurors unknown, and also unknown to anybody and everybody, murdered him; and had succeeded — in the mode indicated by the Counsel — in the space of eight hours, in destroying every vestige of that body, by acids, or in some other way. Then, suppose that four most respectable Professors of that institution found the clothes of Dr. Parkman — he having been seen to enter, and not seen to come out of Dr. Webster's room — and his pocket-book, taken by the prisoner from Dr. Parkman, in the possession of this defendant, and no vestige of his body. Then Dr. Webster says, taken by surprise, "I murdered him, but do not betray me." Those

Professors thereupon take him into custody. Not another word is said. Then, when he is advised by Counsel, he retracts his confession, and there is no evidence how he killed him; according to the monstrous proposition of the Counsel for the defence, he might have walked the streets of this city, and shown himself anywhere, free as the air, throughout this Commonwealth of ours, and the law could not reach him! Now, if that is the law of this land, it is time it was altered. No! it is not so.

Gentlemen, I shall maintain, here before you, that if you are doubtful — and I admit you may well be — whether he died by a blow on the head by a hammer, or by a stab from a knife — if you are doubtful how it was done, by what means, or instrument — and yet, if you are satisfied that Dr. Webster was the perpetrator of the homicide, that he did deprive Dr. George Parkman of life, — then, no matter how he did it, he cannot, under this indictment, escape the violated justice of this Commonwealth. That is to be vindicated, were he ten times higher in social position, as much as though he were the humblest man among us.

Now, in order to come to the consideration of the evidence, I start with this proposition: — That the proof in this case must satisfy you beyond a reasonable doubt — and by that is meant a doubt for which you can give a satisfactory reason to your own minds, and to others, if they ask it; not a possible doubt; not that it was possible that some one else might have done this, but a reasonable doubt, that George Parkman has been killed. Proof must satisfy you, beyond reasonable doubt, that George Parkman has been killed by somebody. Have you a doubt of that? If you have, my labor is in vain. I may stop here, for the case stops here; and your faith, Gentlemen, in anything else in this case, is equally vain.

Why, it is said by the learned Counsel that there is no direct evidence that Dr. George Parkman is not now living; and it is gravely put to you, in the face of all this proof which we have had here, upon the testimony of Dr. W. T. G. Morton, and upon such improbabilities as the ingenuity of the Counsel could invent — it is gravely put to you, as a question in doubt, whether Dr. George Parkman still be in full life or no.

Well, Gentlemen, what have we been doing here, for a fortnight past? What has been done before we came here? Have the solemn rites of religion been performed over unknown bones? Has his estate been administered upon, and have others succeeded to and entered upon the large responsibilities which belonged to him, — and yet, is he still among the living? Oh, would to God it were so! Has there not been a search, which has brought into requisition, not only the vigilant police of this city, but which made every man in it a policeman — a search such as never was had before? And no tidings or trace of him, living or dead, have been found, unless these mutilated remains, and these calcined bones, constituted parts of his mortal frame.

Why, it is said —

> "The times have been
> That, when the brains were out, the man would die,
> And there an end; but now"

under the invocation of the learned Counsel —

— "they rise again,
With twenty mortal murders on their crowns
And push us from our stools."

Ay, Gentlemen, to push you from your stools, which you occupy, — the seats of justice and the law. But the attempt will fail. I read it in your countenances — I read it in the proof which came from that witness-stand — that you have no more doubt that those were the remains of Dr. George Parkman, than that this which I am now uttering to you is my living voice. Upon this part of the case there is not left a particle of doubt.

But we are to consider, what was originally intended to be presented as leading to this conclusion, but which, upon the strength of the proof, has now been tortured into making the foundation for another hypothesis — the evidence of the *alibi*, so to speak, of Dr. Parkman.

What was the original purpose and object of the Counsel, in undertaking to show here that Dr. George Parkman was seen on Friday afternoon, the 23d of November, after two o'clock, and so along till five o'clock of that day? What was the original purpose of this evidence? Look back to the statement of the opening Counsel for the defence, and you will see what it was. Did an intimation fall from the lips of my learned friend, the junior Counsel, that their evidence was to satisfy you — what the senior Counsel undertook to maintain as his hypothesis — that there was a separation of Dr. Parkman and Dr. Webster, which reconciles the testimony of both the Government and the defence? That was for the purpose of satisfying your minds, or rather of raising a reasonable doubt, whether the remains were proved to be those of Dr. Parkman. That was the object of it; for that was really the great point in the defence. Dr. Webster had started it very early in these proceedings, and under circumstances which made the declaration pregnant against him, that that was no more Dr. Parkman's body than it was his body. So they went over this community to find witnesses who could testify to having seen Dr. Parkman. And I venture to say, that from the fifteen or twenty whom they might have presented here, they selected the five whose stories most nearly agreed. Yet can you doubt that they might have had fifteen more? But it would have placed him in so many places at the same time, it would have been impossible for the evidence to be correct, without making him ubiquitous.

They have presented to you the testimony of Mrs. Hatch, Mr. Thompson, Mr. Wentworth, Mr. Cleland, Mrs. Rhodes and her daughter, and Mrs. Greenough. I shall examine, not only to show how fallacious it is with regard to his separating from Dr. Webster, but also with regard to the main proposition, that those were the remains of Dr. Parkman found in the laboratory of Dr. Webster.

Mrs. Hatch is the first witness. She places Dr. Parkman in Cambridge-street, going up towards Court-street, at about a quarter before two o'clock on Friday afternoon, Nov. 23d. This is all consistent with the statement of the Government. It was some time in the course of the afternoon she spoke of meeting "Chin," as she called him. Suppose a mistake of only five minutes; and Dr. Parkman, being in Cambridge-street, turns upon his track, while she passes on; — he turns again,

and goes into Mr. Holland's store. But there is another answer to her testimony. I suppose it to be philosophically true, that two persons, between whom there is a general resemblance of feature, form, and gait, would not be so likely to be mistaken for each other, as two persons who have some one peculiar and striking feature in common. Why? Because a general resemblance does not so much arrest the attention, and strike the eye, as a single prominent peculiarity. And you see that the only impression that Mrs. Hatch received was, that she had seen a prominent chin. She had no conversation with him. She did not speak to him, nor he to her. She passed a person with a prominent chin. She spoke of it, in the course of the afternoon, not as Dr. Parkman, but as "Chin;" showing what had arrested her notice.

Take the testimony of Mr. Thompson, the *biological* witness. He saw him, he says, at about fifteen minutes past two o'clock, in Causeway-street. He did not speak to him. He thinks it was fifteen minutes past two o'clock that he saw him, because he looked at the clock as he came away from East Cambridge. That clock, we have shown to you, by two witnesses, to be an unsafe and unreliable time-piece; and especially when it was first put up, last autumn.

He merely saw him passing. He may have made a mistake, as to the hour, or the identity of the person. I do not suggest that he made a mistake as to the day, but I think he did mistake the time, or, more likely, the person.

Mr. Wentworth testifies that he saw him in Court-street, between half past two and three o'clock. The others saw him going at his usual gait. This witness sees him looking at the roofs of the houses. His attention is called to the fact of his disappearance, the next night; and he does not think it worth his while, notwithstanding the great public excitement, notwithstanding all the rewards, notwithstanding the suspense and anguish of desponding friends, to go and communicate so important a fact as this.

Neither of these witnesses, Mrs. Hatch, or Mr. Wentworth, saw him so as to observe his dress. But, above all, with respect to Wentworth's testimony, he declares to you that Mr. Russell was with him — a gentleman whom we put upon the stand, and who says that he was with Mr. Wentworth on an occasion when he saw Dr. Parkman. Wentworth fixes it as the only time when he was with Mr. Russell and saw Dr. Parkman. Russell says he cannot fix the day, but that it cannot be the day that Dr. Parkman disappeared; for he heard of the disappearance the next day, and is confident that it would then have come to his mind, had it been on the day of his disappearance. I regard the testimony of Wentworth to be so impaired, by this testimony of Russell, as to be valueless.

Next comes the testimony of Mr. Cleland. That testimony, like that of Mrs. Rhodes, is dependent on two facts of memory that are independent of each other. If Mr. Cleland had said that he knew it was on Friday that he saw Dr. Parkman, because on Friday he met Dr. Parkman going into such a place while he was coming out, and he knows that he went into that place only on that day, and fixes it, by other evidence, that he was there, then he has but one fact, in respect to the time, to remember. But now he has two facts; the time when he went to see the Rev. Mr. Wildes, and the time that he

saw Dr. Parkman. He does not fix the time, except by the notes. But whether it was on that day that he saw Dr. Parkman, depends entirely upon the confidence he reposed in his memory. Then there is the matter of identity. How did he see Dr. Parkman? Unquestionably we cannot doubt that there is a person whose slender form, whose peculiar gait, so resembles those of the late Dr. George Parkman, that he was very frequently mistaken for him. Mr. Cleland says that he has not spoken to Dr. Parkman for several years; that he did not observe his dress; that there were persons intervening; that he passed by him and did not nod, but thought that it was singular to see Dr. George Parkman walking with a laboring man, whom he at first erroneously supposed was in his company.

Then we have the testimony Mrs. Rhodes and her daughter. I suppose it is a matter which may be referred to, without being put expressly in evidence, that the sun set, on the 23d of November, at thirty-two minutes past four o'clock. It is proved that that was a cloudy day. "I saw him from a quarter to five to five o'clock," says Mrs. Rhodes. How near dark was it? How did she see him? Approaching? No! Not till she got up side by side, — then she bowed to him. She did not say he bowed first. Suppose it was the stranger resembling Dr. Parkman. Suppose he met this gracious lady bowing to him; he would naturally return the salutation, though she was a stranger. She bows and passes on, in the twilight. On Sunday morning, she first hears of his disappearance. She was a parishioner of his distressed brother, and it never occurred to her, through that Sabbath-day, — never through the Monday following, — never through the Tuesday following, until Tuesday night, when her daughter returned from Lexington, — to communicate the fact. Then came the after-thought, that she had seen him on Friday afternoon, as late as five o'clock. Then she puts in another fact, — and I take the testimony of herself and daughter together, for it amounts to one, — another fact which is pregnant with significance; that Dr. Parkman, when she met him, was in company with a gentleman wearing a dark-colored surtout, which she noticed as she passed him. Where is that gentleman? Why is not he here to tell us that he was walking in company with Dr. Parkman, on that day, at that hour, and in that place? Is not that fact conclusive that Mrs. Rhodes was mistaken? She is mistaken as to the day or the person, beyond all peradventure or doubt.

The testimony of Mrs. Greenough I need not comment upon. It was characterized by a fairness, by a scrupulousness, which I should have been glad to have seen imitated. "It was my belief; but I cannot be positive." Why, Gentlemen? Because she reflects that he has never been seen in the world since. That nobody has seen him, is one of the elements to be taken into consideration in determining whether she saw him, or whether she was not deceived in her impression that it was him.

If we satisfy your minds that Dr. Parkman's bones were found in that furnace, his remains in that vault and in that tea-chest, then that fact is just as much to be taken into consideration, to be weighed against this testimony to prove that he was seen after he entered the Medical College, as this testimony of the *alibi* is, against the fact of those being his remains, or the fact that he never left that building

alive. And I undertake to say, that all this testimony, if it were in reference to an ordinary case of *alibi*, where the party was still living, — the testimony of six witnesses, who swear that they passed the person in the street, did no business with him, did not speak with him, that there was a person with him at the time, who does not come forward, — would be extremely unsatisfactory. If Dr. George Parkman were living, and in this Court-house to-day, trying an action against Dr. Webster for having stolen his notes of hand, and the only defence was founded upon this testimony of an *alibi*, I should maintain with confidence to a Jury, that the evidence was, in itself, weak and insufficient. But what was Dr. George Parkman doing, on that day, when these witnesses think they saw him? Roaming about the streets; — now in Cambridge-street, then in Causeway-street; now in Washington-street, going towards Roxbury; then in Court-street, examining the roofs of houses. Again in Cambridge-street, and afterwards in Green-street. What was he doing? Was there ever anything so preposterous!

Consider this fact. I believe the city have made a computation of the number of persons that pass through Court-street in a certain given time, during a business day. I do not remember the number, though I think I have heard. [A voice — "Thirty thousand."] Thirty thousand persons, in a day of twelve hours, as I am now informed. How many persons were there in the city who did not know Dr. George Parkman? Or, I might put it with more strength, how many were there who did know him?

Now, if Dr. Parkman were roaming about this city, as these witnesses describe, during the whole of that Friday afternoon, I ask you to say, upon your consciences, would they not have been able to produce here, to swear to the fact — not six, or sixty, or six hundred, even, — six thousand, rather! Do you suppose that it would have been possible for him to have wandered about this city during a whole afternoon, and no human being, except these six persons, to have seen him? Well, what is the evidence? That this great number of persons, who, if he had been in the streets, must have seen him, did not see him! This is shown by the search which followed immediately, — a search of the greatest extent, vigilance, closeness, and scrutiny, that was ever made throughout this city.

But it is not merely the passing a person in the street, or on the opposite side of the street, or on the same side of the street, or having a mere passing glance, which, if we give any weight to experience, can give us a well-grounded assurance that we are not mistaken in this matter of identity. We offered to put in evidence here, that there were persons who accosted a man, believing him to be Dr. George Parkman, and found they were mistaken, when they approached to converse with him. We were not allowed to put it in. And why? Because it was a matter of common experience, as the Court said. And I put to you, that it is a matter of common experience, — common to you and to me. I ask you, how many times you have gone up to a person, and spoken to him, or even attempted to take him by the hand, and then retreated with — "I beg your pardon, sir; I thought it was Mr. ——."

You may have seen the District Attorney of the neighboring Courts of Middlesex, Mr. Train, by my side, during one day of this trial.

In the last capital trial I conducted in that county, I met upon the sidewalk, near the Leverett-street Jail, on my way to East Cambridge, on the first morning of the trial, a police officer of this city. As I passed him, he said to me, "Mr. Train, good-morning." I stopped, having this very matter of the disappearance of Dr. Parkman in my mind, and turned toward him. He asked, "At what time shall I bring over the subpœnas?" "In what case?" I inquired. "The Pearson case," said he. "Oh, any time in the forenoon," I responded, and passed on.

On my arrival at the Court-room, I mentioned the circumstance to Mr. Train; and, at my suggestion, he met the officer with a reproach, when he came with the subpœnas, for not bringing them sooner. "Why," said the officer, "you told me I could bring them any time this forenoon." "I told you? — when?" "Why, this morning, when you were coming over." "I have not seen you to-day," replied Mr. Train. "Why, certainly, I met you, and talked with you." "You met me?" "Certainly, I did." So confident was he of the identity, he was ready to have gone upon the stand, and sworn that he did talk with Mr. Train; and when I told him that I was the person, and told him precisely what the conversation was, for a long time, he honestly believed that we were playing a hoax upon him. Yet, Gentlemen, the degree of resemblance between Mr. Train and myself is no greater than is found between many persons here present, and between Dr. Parkman and many persons now living.

I alluded, in the discussion to the Court of a question that was mooted yesterday, to the celebrated case of Sherman, in Middlesex. That was an instructive case, upon this matter of identity. A person was arrested, charged with having committed an assault upon a little girl in Medford, and another upon another girl in Newton. One assault was committed on Saturday, and the other on Monday. A week afterwards, this man made his appearance in Newton, and was recognized by two ladies, who had seen him when he was running away from the spot where he was attempting the assault. He was arrested, and brought before the magistrate. He stated that he had never been in that place before, which was untrue. The children were sent for, and, in a crowd of a hundred people, they both selected him. The parties from Medford came over, and they identified him also. He was indicted by the Grand Jury on two indictments, and they were both put to the Jury at the same time.

The evidence of these two classes of witnesses, from both towns, nineteen in number, was laid before the Jury. They were positive, clear and certain, in their testimony, that he was the person; the proof of identity was perfect and complete, when the Government evidence was closed. The Counsel for the defence, having received from the defendant a statement of his whereabouts, then traced him, by undoubted proof, through the whole week, and particularly covering the two days of Saturday and Monday. He proved, by most respectable witnesses, and the most undoubted corroborating circumstances and facts, that that man, on Saturday, rode out of Nashua on a stage-coach, and that on Monday he was at Manchester, in New Hampshire. The *alibi* was so conclusive the Government were compelled to abandon the prosecution; the learned Judge saying that there never was so strong a case of identity as that made out for the Govern-

ment, except the case which had been proved for the defence. It was shown that there were two persons as like as the two Dromios, not only in countenance, form and gait, but even in the accidents of dress.

Now, Gentlemen, to talk about a man's being satisfied, by a passing glance, that he saw a particular individual, whom such a mass of proof as in this case tends to show was then numbered with the dead — who has never appeared since that fatal day — and to undertake to satisfy a Jury of this, when all the probabilities are against the conclusion, seems to me like asking a Jury to surrender everything that is proved in the case to the testimony of three or four witnesses to a fact in which they are more likely to be mistaken than any fact to which they could testify.

But, beyond and above all this, however your minds may be affected by this testimony, let me now meet the proposition of the Counsel for the defendant, by saying that, whether these people saw Dr. Parkman or not, as they have testified, is entirely immaterial to your verdict in this case. If you are satisfied upon the other branches of this case, that Dr. Parkman's remains were found in the premises of this prisoner; and if the evidence connects him with those remains, then, what matters it whether Dr. Parkman was seen after two o'clock on that day or not? The Court will tell you that the time when this homicide was committed is immaterial. It may have been on one day, or another; it may have been at one hour, or another. And if these witnesses did see Dr. Parkman — improbable as it is — yet, if Dr. Webster, by some means and instrumentalities to us unknown, did beguile and entice him back to the College, and there obtain those notes, and did deprive him of life, then, Gentlemen of the Jury, it becomes entirely immaterial when it was done.

But where was Dr. Webster himself that Friday afternoon? Where did he dine that day? Did the Counsel answer that? Did his proofs answer that? Is the fact which the Government have put in here disturbed one particle — shaken from its foundation at all — that Dr. Webster was at that laboratory, dinnerless and alone, with no lecture to prepare, at a time when the longest interval occurred between his lectures, viz., from Friday until Tuesday? Has that fact been shaken? And if he did dine anywhere, whether at home or abroad, would he not have shown it? He was arrested within a week. He had sagacious, acute and intelligent friends about him; he lacked no legal counsel, no anxious friendship, which would seize upon such a vital fact as this, and prove it before you. And if he was locked up in that laboratory all that afternoon, whether he enticed Dr. Parkman back there and slew him at four o'clock instead of two o'clock, what is the difference? And thus, all this testimony about the Parkman *alibi*, as it is called, becomes entirely immaterial to the real issue before you.

But I now pass to the consideration of the identity. How is this proved, Gentlemen of the Jury? It is put to you as an open question; how is it proved? We have heard something said about the negative argument. I think it will be apparent, upon a little consideration and analysis of the testimony, that there is nothing negative in the argument which I shall draw from the facts proved here, independent of the teeth.

In the first place, the evidence shows, beyond all question, that the parts of a human body found in that furnace, and in that vault, and

in that tea-chest, constituted parts of only one human body. By the marvellous science and skill, so beautifully detailed to you here by that accomplished scientific man, Dr. Wyman, and by the testimony of those other intelligent physicians, who made the examination of the body — by the testimony of all of them, this fact is placed beyond the reach of doubt. In addition to that, it is evident, from all the testimony, that these constituted the parts of a body which was not a subject for dissection. That you can have no doubt about; the testimony of Dr. Ainsworth is that there was no subject, that belonged to the College, missing. He keeps a correct record, and all his subjects were accounted for. It has not been suggested that any other person was killed or missing, except Dr. Parkman. And now take these coincident facts: — that here were the mutilated remains of a human body; that no subject was missing from the dissecting-room; that no person had died, by violence or otherwise, whose remains were missing; no living person missing, except Dr. Parkman; and that these remains are found to bear every point of resemblance, and not a single point of dissimilarity, in form, age, or size, or in the fact that he wore false teeth,— I ask you, if anything can rest on human probabilities, what is the value and strength of this argument? Is it negative?

Why, you might take the entire community — ay, the community of the entire country and the world — and go through it, and select from it the man who most resembled Dr. George Parkman: let him be slain; let that man's remains be mutilated precisely as these were mutilated, preserving no more than were preserved of these; and the chances are as millions to one — ay, you cannot calculate the chances — that upon the remains of that person, or those portions of them corresponding to those found here, although there might be entire resemblance in most particulars, still there would, to the searching eye of friendship, and of long acquaintanceship, be some one little point of dissimilarity; — and one such point as that would be just as fatal as if there were no resemblance at all. Yet here you find, from the testimony of the physicians, from the testimony of Mr. Shaw, of Dr. Strong, and others who examined them, and drew their conclusions, that they were the remains of Dr. Parkman, before Dr. Keep had ever examined those teeth, or it was known that Dr. Keep could have identified them. I ask you whether their opinions were not justified by this state of facts? I do not say that upon this evidence alone you would have been called upon to pronounce upon this question of identity; but I do ask you to consider whether all these facts do not reasonably justify the conclusion, to which his friends arrived, that those were the mortal remains of Dr. Parkman, and of no one else?

Consider it for a moment. Here is a portion of a human body, which has great peculiarities. There is no doubt about that. Mr. Shaw testifies to it. Dr. Strong testifies to it. There was the peculiar color, profusion, and length of hair; the peculiar shape of the jaw, with the fact of wearing false teeth; and the exact similarity in the height of the body. What are the chances that, among all these points of resemblance, there should not be one single point of difference, if they were the remains of another person? These resemblances may be said to be slight. Well, if they are, they are many; and a thousand threads, all running in one direction, and not one running counter to them, though they are as slight

as the finest filaments of gossamer ever woven in the morning sunlight, yet by their very number and direction they may be strong enough to draw us irresistibly to the conclusion to which they lead. Why, Gentlemen, of what is the cable made, that holds the ship to her moorings? Its separate threads may be snapped by an infant's hands; but, united, they resist the force of the tempest.

I come now to the positive, the demonstrative testimony; upon which I undertake to say, that you, as intelligent men, must be as well convinced, as if we had brought in here the entire mortal body of the deceased. I mean the testimony of Drs. Keep, Noble, and Wyman. And I approach it reverently, when I consider the circumstances under which this identification was made, — when I remember the long and patient labor of that conscientious man, Dr. Keep, upon the manufacture of a set of teeth for Dr. Parkman. that he might be present at the opening of that College building of which he had been the munificent benefactor — that it should happen, in the order of Providence, that in that very building, where he met his fate, that very set of teeth should have been found to identify his remains, and to vindicate his memory — ay, and to vindicate the law! I do approach it reverently. I seem to see in it the guiding hand of Almighty God. leading us to the discovery of the truth. And when that witness stood upon that stand, and gave us the history of his patient labors over those blocks of teeth, the Counsel here, able, and accomplished, and vigilant, as they are, must have felt, and did feel, that the great foundation of the defence, upon which they had hoped to build up their theory, was crumbling out, sand by sand, and stone by stone, from beneath them.

And consider, too, that these witnesses were no volunteers, in order to fasten upon this unfortunate person a charge so awful and revolting as this. No! Dr. Keep's own emotion indicated with what reluctance he had come to that awful conviction. Why, Gentlemen, why? Not simply that these were the remains of his friend, but that they were also the remains of the friend of Dr. Webster, who was also his friend. He was his teacher; he saw how it tended to fasten and fix this act upon him — what an immense stride was then made toward the conclusion at which a Jury must arrive, when that great question of identity must be settled beyond controversy or doubt.

The conviction pressed itself upon him, that this prisoner, whom he would save if he could, must be connected with the mutilated remains of one who had been, not only the benefactor of the institution in which he earned his bread, but his benefactor also, as these papers here well show you — the benefactor, the friend, of him

> "Who should against his murderer shut the door,
> Not bear the knife himself."

And he felt as any man of ordinary feeling would, at coming to such a conclusion as the truth required him to state to us — "I know those teeth were his, as well as if I had them entire in my hand today." That he could state this with confidence, take the testimony of the experts we put upon the stand, and what becomes of the miserable pretext which Dr. Morton presented, that such blocks of teeth could not be identified? They could be recognized, according to the beautiful analogy expressed by two of the witnesses. Drs. Harwood and Tucker,

in the words of one, "as well as the sculptor would know the product of his chisel;" and the other, "as well as a painter, who had studied a face for a week, and painted it upon the canvass, could know the portrait as his own work, wherever he might see it."

If anything more were needed, it is found in the conformity of the jaw of Dr. Parkman to the mould which Dr. Keep had; which mould corresponded with all the peculiarities of the jaw of Dr. Parkman, picked out from the smouldering ashes, and, by that true lover of science and uncompromising seeker for the truth, Dr. Wyman, put together, and produced here before us. If he had produced here Dr. Parkman's right hand, with a scar upon it which every one of his friends had known, the evidence of identity could not be more conclusive. When we consider that here is a man in this culprit's dock, with such advantages of education and of culture as he has enjoyed, who is himself a devotee of science, — and we feel that he has so debased and betrayed his high vocation and mission as to have slain, either in anger or in cold blood, whichever it may be, his fellow-man, and his benefactor and friend, — it almost sickens us; we feel that there is no shield for any of us against the commission of great crimes; that culture, science, and all the ennobling and purifying influence of education, are utterly lost upon us. To find them subjected to such base uses as that chemist's laboratory has witnessed, prompts us to exclaim, with the poet,

> "Oh star-eyed science! hast thou wandered there
> To waft us back the tidings of despair?"

But we recover and are refreshed only when we go to the other fact which this case discloses, that, although science had been debased to the purpose of destroying those remains, yet science, in its true vocation, in its nobler scope, sifts and penetrates those smouldering ashes, and evokes from them those materials with which it reconstructs almost the entire body which science had vainly attempted to destroy. This gives to us a renewed assurance of respect for science! And I cannot pass from this part of the case without expressing a feeling which has been often in my mind during the solemnities of this trial — the honor that is due to that noble profession through whose ministers this assurance has come to us. When we have welcomed them to our bedsides, amid our trials and sufferings, we have loved and honored them; but when we meet them here, and see them taking the stand, as they do, most reluctantly, against one of their own brotherhood, — forgetting, or rather trampling under foot, all those considerations which arise from caste, from class, and giving themselves unreservedly to the truth, let it strike where it may, let it fall where it will, — they challenge and are worthy of the highest honor; and they have my humble reverence. One of their number, whom we looked to have been here, and whose aid, in another recent capital trial, I had occasion to seek — in which his testimony showed how much he would have added to the impressiveness of this — has passed away from us, since these investigations commenced, — a man who honored the community in which he lived, who honored the profession to which he belonged, and who, for the cause of science, has been removed from us too soon, — I refer to the late Dr. Martin Gay, whose testimony to that scene down in yonder prison, and over at that Medical College,

would have been as valuable to us, as would his scientific testimony upon the question of the identification of the remains.

I now pass to the consideration of another proposition. I consider the matter settled, beyond all question, that there were found, in Dr. Webster's laboratory, in the vault, the tea-chest, and the furnace, the remains of Dr. Parkman. The circumstances under which those remains were found, negative, without the aid of argument, the two propositions which have been presented by the learned Counsel: — one, that he died by his own impious hand — that he committed suicide; the other, that he died by the visitation of the Almighty — a natural death. No man, it seems to me, can call upon Counsel to argue a question like that. Why, Gentlemen, to have died a natural death, and his body to be found thus mutilated, and mutilated there! — for what conceivable purpose? Is it possible that he committed suicide, and some person, in mere sport, had hacked those remains, and burned that head? Preposterous! Absurd! Could his death have been innocent, with such a disposition of his body? No, Gentlemen! It speaks louder than any language of mine can speak, that there was crime, as there was concealment, connected with these remains. This hypothesis was not pressed by the other side; it was thrown out as a suggestion — consistent or inconsistent as it might be with other propositions; and the inconsistencies of some of these I shall advert to presently. But this idea was not dwelt upon, and the Counsel could not have entertained such an opinion. No, Gentlemen! The circumstances under which those remains were found bring us conclusively to the conviction that crime was connected with the destruction of Dr. Parkman's life, by whomsoever it was done.

I now, Gentlemen of the Jury, come to examine the hypotheses which have been set up on behalf of this defendant. I ask you to consider whether any one of them even, taken alone, independent of the rest, is a rational, reasonable hypothesis, such as the law contemplates to negative the hypothesis which the Government maintains upon circumstantial proof. I shall then ask you to consider how consistent with each other these hypotheses are. I think I cannot be mistaken, that the consumption of your time, upon this latter subject, will be superfluous. For, although that argument, which embraced these theories and propositions, was addressed to you in the most impressive language and manner, and although each independent and distinct proposition came from my learned friend with a force and fervency which I could not hope to rival, if I had the ambition to do so, still, I think, as fair-minded men, men of fair intelligence, you could not but have been struck with the manifest contradictions and inconsistencies into which his case had betrayed him. And yet, there was no help for it. He did all that mortal man could do. He had the truth of the case against him. And I do not know that an argument could have been framed that would have been more satisfactory, — certainly none more able and impressive, — than he addressed to you, out of the materials that he had at his command.

But what were the propositions? They were, that Dr. Webster admitted, what we had proved, that Dr. Parkman went to that College at or about half past one o'clock; that he paid Dr. Parkman the money, which we say the proof denies; and that, beyond this, he denies everything. Then the Counsel undertake to construct their hypoth-

eses. And what are they? In the first place, and most important, they disclaim, now that our proof is in and uncontrollable, all imputation upon Mr. Littlefield as having been the author of Dr. Parkman's death. If they had not done that in words, you, as a Jury, would be bound to put your impress upon that hypothetical statement of what Mr. Littlefield did, or might have done. That came, as the Counsel told you, in the fearless discharge of his duty. It may be that it was in the discharge of a duty that he put Mr. Littlefield, an honest man, upon his trial here, though he did not dare to make the accusation against him that his client had the hardihood to make before he came here.

The Counsel knew that where we had corroborated Mr. Littlefield, he would stand unshaken; and that we had furnished them with the means of contradicting him, if his statements were untrue; and that they did not contradict him in a single syllable. I mean to present Mr. Littlefield just as he is. I mean that justice shall be done to him, if justice is not done to him who libelled him. But I now speak of it as a part of the Counsel's allegations, that he disclaimed all imputation upon Mr. Littlefield, as having been the perpetrator of this crime.

But the Counsel argues, supposing this to be the body of Dr. Parkman, it is not proved he died by violence; he might have died a natural death, and been stripped and robbed, and his body carried into the laboratory of Dr. Webster, and he not know it.

I have already had occasion to say to you, we are not here to discuss possibilities. It is no part of your duty, though it may be a part of the duty of the Counsel. He could suggest nothing else. Why, Gentlemen of the Jury, he might, with almost equal plausibility, say that Dr. Holmes, the accomplished physician and Professor, who entwines with his scientific laurels the wreath of the muses — whose fame is precious to us all, — who is known, and honored, and beloved everywhere, — that Dr. Holmes might have killed Dr. Parkman, when he was coming down out of his lecture-room. But we are not dealing with possibilities.

Having dismissed Mr. Littlefield, and the other possibilities, the suggestion is, that the deed was committed by somebody out of the College, and the remains carried there. And that really seemed to be the proposition upon which the Counsel rested. You see the inconsistency of his other propositions; if Dr. Parkman went there at half past one o'clock, and then went away, as Dr. Webster said he did, and thence to Holland's store, and bought his groceries, and then back again to the College, and was there waylaid and murdered, then all the testimony which they put in afterwards, of the afternoon *alibi*, goes for nothing. He never was seen out of the building, if that is true. If he was killed elsewhere and carried there, it involves another absurdity. The idea is, that it was done by some robber or marauder, who waylaid him, and, after he had slain him, carried his remains to that College. For what? Why, the first suggestion is, to have them destroyed, or for concealment until the excitement arising out of his disappearance should subside; the other is, in order to get the reward which was offered for the discovery of the remains. Then it becomes quite material to consider what is meant by the suggestion that the criminal got in there that night, and by that mysterious unbolting of the door. Ay, and when was that? Friday night! — that

was the night of the day of his disappearance. The robber and murderer was expeditious, upon the hypothesis that he separated from Dr. Webster, and was wandering about the city deranged that afternoon, and his body concealed in the College that night.

But how does this consist with the theory that he was killed elsewhere, and it was not until a search was made, and a reward offered, and when slander began to breathe upon Prof. Webster's name, and connect him with the disappearance, that this marauder, whoever he was, went and deposited the remains in Dr. Webster's room, and there proceeded to dissect and destroy them? What is the proposition? Does it satisfy your minds, Gentlemen? Does it raise a reasonable doubt? Remember that, whoever this marauder was, he was a tolerably competent dissector and anatomist; for the manner in which that body was cut up, in the expressive language of Dr. Holmes, showed it to have been done by a competent person — "There was no botching about the business." No, Gentlemen; he left

"No rubs nor botches in the work."

So that, whoever he was, he was a tolerably skilful anatomist.

More than that — he was something of a chemist. Do you remember the testimony of Dr. Charles T. Jackson, confirmed by one of the other medical witnesses? It was he and Mr. Crossley, who, with Dr. Gay, made the examination. Their testimony, independent of that of Dr. Gay, is, that they took portions of the muscle of the thorax, and found that strong alkalies had been applied to it, which is known to chemists to be a most efficient mode of destroying flesh. "But, after slander had begun to whisper against the good name of Dr. Webster!" — there were rumors, were there? there were slanders, were there? which began to blow upon his good name! — Gentlemen, I ask you to consider, as men having faith in Providence, whether it is likely that unfounded suspicions could attach to such a man as Dr. Webster, of having committed an act like this.

More, Gentlemen! — and this answers a very considerable portion of the theory advanced by the Counsel — I ask you if you believe that it would be possible, in a community like this, distinguished for its intelligence and its humanity, that such a man as Dr. Webster could remain, not under suspicion only, but under an accusation like this, for four months together, and no hope-giving trace or indication of his innocence be discovered? Why, Gentlemen, what interests have been involved in his innocence, if it could be made to appear! — what anxiety and solicitude have been felt by all the friends of good order, of education, — of that beloved University, the cherished child of our Pilgrim Fathers! If one of the officers of that University were charged with crime, he would have, as this prisoner has had, not only the sympathies, but the repelling disbelief, until proof forced its convictions upon us, of every man in the community. Do you suppose that suspicion upon such a man as that could ripen into accusation, and that accusation into an indictment, and that indictment into trial, in a community like this, and the world sit down quietly and let it all go on, if he were an innocent man? But, it is further urged by the Counsel, that, before suspicion had begun to be aroused, even as early as the Friday night of Dr. Parkman's disappearance, the person who carried the remains there got into that

building in some incomprehensible way, and hence the door was found unbolted in the morning. You remember how impressive the Counsel was about that unknown person, who might thus and then have effected his entrance into the building. This, of course, is utterly subversive of the other theory, if it has any foundation in the proof. But I think there is another suggestion worthy of your attention. On that Friday night, after one o'clock in the morning, and up to one the next day, who testifies of the whereabout of Dr. Webster? Who, beside him, had a key to that door, except Dr. Leigh? The facility with which Dr. Webster flitted between the Medical College and Cambridge has been made apparent to you by the testimony of his own witnesses. I, too, think the unbolted door had some connection with these remains, but not that it bears upon any other person than the prisoner. I cannot imagine that there was some murderer outside who carries these remains there, because suspicion had begun to breathe upon Dr. Webster. That would imply that this body had been put there at a very late period in the week.

But, in point of fact, Gentlemen, until these remains were found on the premises, and until that startling discovery was communicated to the police, there was no evidence of a general suspicion against the prisoner — none whatever, until Friday, the day of his arrest. Then, undoubtedly, it was a matter of remark. There is no doubt but that, with regard to the College, public sentiment had been decided before that date. But, let me say that the public are not prompt to entertain an unfounded charge, of a great crime, against a man who is set so far beyond the reach of suspicion as to make it require proof upon proof to connect him with the transaction. But what foundation is there for any such theory as this? There has appeared nothing yet, nothing whatever, to point at, or implicate, any such third person. And upon what are you to try this cause, Gentlemen? "Hearken to your *evidence*," was the admonition with which you commenced your patient and protracted labors in this trial; and you are to take it all. I shall consider how much has been added to it by the defence, by and bye.

Four months have now elapsed, and neither time, place, mode of death, nor any other circumstance, has directed attention to any third person; nobody else is suspected. It is idle, it is absurd, to suppose, in a state of evidence like this, that any one else committed the act which all that evidence tends to fix and fasten upon this prisoner.

There is a further suggestion — and I will answer it now — that the remains were carried to the Medical College with a view to get the reward. Did ever a reasonable man listen to, or did ever wise men, who were uttering their own convictions —

[Judge Merrick here interposes, and holds a private consultation with the Attorney General.]

Mr. Clifford. I understand, may it please your Honors, and Gentlemen, from my learned friend — to whose argument, to whose efforts, I am certainly disposed to do entire justice — that he used the matter of the reward in connection only with this consideration: that it might be remarkable that the offering of the reward was coincident with Mr. Littlefield's commencing the search for these remains. The fact is not so; but, if it were so, what an absurdity it would be, connecting it with anybody! That a person should deposit there, and

afterwards find there, what? — not that portion which has been satisfactorily identified, but parts which could not be identified! How absurd, that he should have destroyed all those parts of the body by which identity is ordinarily proved, and to which we must resort to prove it — the head, hands, arms and feet — and then undertake to find the remains which were concealed in the vault, for the purpose of getting the reward, when the great question would be, in the first instance, whether they were the remains of Dr. Parkman or not.

You will remember that all Mr. Littlefield found were the portions deposited in the privy vault. He did not find the portions in the tea-chest, or the bones and teeth in the furnace, and he gave no intimations by which they could be found. He found simply the pelvis, the right thigh, and left leg. And how did he find them? I shall consider that in a moment. The proposition, then, that they were put there for the purpose of obtaining a reward, is preposterous.

Then take the other proposition. Could any man in his senses have undertaken to destroy those remains in Dr. Webster's laboratory? — in the day-time, remember, when he was there, as we show, not by Mr. Littlefield alone, but, as they show, negatively, by their own evidence. For it is a most remarkable and significant fact, that the three daughters of Dr. Webster, who came here to testify in the defence, have, by their own testimony, in a most remarkable degree, confirmed and corroborated Mr. Littlefield. They put their father away from home at the very time Mr. Littlefield puts him at the College, and Mr. Littlefield puts him away from the College at the very time they put him at home. There is no conflict, but a perfect harmony, between the testimony of these witnesses. Now, the absurdity of any person doing such a piece of work as this, in that laboratory, without the knowledge of Dr. Webster, is manifest. Suppose they had secured their opportunities, when he was out? There was that assay furnace, in which, upon the evidence, a fire had never been kindled before. Do you think Dr. Webster could have had a person there, and a fire in the furnace, without his attention being attracted to it? For what purpose would any other individual do this? Who would be so fatuitously presumptuous as to attempt to fasten upon a man in Dr. Webster's position an accusation like this and by such means as these?

Now, Gentlemen, I intend to state to you two or three propositions upon this subject, which, I think, are clearly met by the evidence in the case, and sustained. If Dr. Parkman had been killed in that College, and his body never carried out, but subsequently conveyed into Dr. Webster's laboratory, for concealment, or for the purpose of being consumed, then it is evident that either Dr. Webster or Mr. Littlefield must have known it. I think that we cannot escape from that proposition. Their hypothesis is, that some assassin might have lurked in the entry — a little space of eight feet wide — and, as he came out of Dr. Webster's room, waylaid and slew him; and that he carried the body either to Dr. Webster's laboratory, and ran the risk of being detected by him, or into Littlefield's apartments, or some other portion of the building, encountering an equal risk of being detected by him. The idea of an assassin laying in wait, with a hundred students all around him, and with the janitor near, and the front door broad open to the street, is as absurd as for a man to lie in wait

in the Merchant's Exchange, at mid-day, with the intention of committing a secret homicide.

Then, we come to the next hypothesis. Was Dr. Parkman killed outside of the College, and his body brought into the apartments of Dr. Webster? If so, it must have been brought there for one of three purposes: — Concealment; to be consumed and destroyed; or to fix the charge of murdering him upon Dr. Webster. The last I have already considered. With regard to the first, *concealment*, it is obvious that it could not be accomplished, because Webster or Littlefield must know it. The idea of going into his laboratory, to burn a body in his furnace, and to conceal it from him, is as absurd as it would be for him to come into this crowded Court-room, and undertake to do it here.

Was the body to be *consumed and destroyed?* All the evidence shows that this could not be done without his knowledge. Drawing off the water, burning up the fire-kindlings, so that only a small quantity was left, packing his knife in the tea-chest, using up his tan, spilling his nitrate of copper upon the stairs, penetrating into his private room to get the twine, — and the fact of that twine being kept in Dr. Webster's private room my learned friend found it convenient not to remember — the grapplings and twine being all together in that private room, in a drawer, — now, I ask you, if any stranger could have done this, and Dr. Webster not have known it? I put it even upon a *possible* hypothesis. I anticipate your answer. The idea of fastening suspicion upon Dr. Webster — what is that? It is not shown to you that he had an enemy even in the world; it is impossible to imagine that any man should have possessed the temerity of fastening the charge of murder falsely upon such a man. And yet, if that had been attempted by anybody, what would have been the natural course? Why, he would have taken the dead body there, and left it in its unmutilated state. Found under these circumstances, it would have been conclusive. What was the probability of its being found? Suppose this hypothesis to be true — the man who killed him outside the College, in order to fix it on Webster and get the reward, did nothing to discover it.

Mr. Littlefield found those parts under the vault; officer Fuller those in the tea-chest; and Coroner Pratt, or Marshal Tukey, the bones in the furnace. If that is true, this unknown, *possible* person took the most incompatible modes of carrying out his intention, and adopted the most efficient means to defeat its fulfilment. I am addressing reasonable men. My learned friend, pressed as he was by the strength of the circumstances, was driven into these inconsistent propositions, absurd and ridiculous as they are; and he had the ability and skill to present them in a most impressive manner.

My duty is to call you back to the testimony. There are, in this case, two or three great, overshadowing facts, which, long ere this, would have sent any common culprit a doomed convict from the prisoner's dock. Before adverting to them, let us consider the other proposition, which has not been made — not in terms been made — but which has been indirectly attempted to be maintained; — I mean, the proposition that Mr. Littlefield is not to be believed. And why? Because, as the Counsel was compelled to say, that, if he was believed, it did make this case a strong one against the defendant. Gentlemen of the Jury, why is he not to be believed? By what rule

are you sitting here, as his fellow-citizens, and under the sanction of your oaths — by what rule of evidence, by what rule of law, by what rule of justice, by what rule of right, are you to say that Mr. Littlefield has not entitled himself to your credence?

There are various modes of impeaching a witness. One is, by attacking his general reputation for veracity. That gives him an opportunity to sustain his character by counter testimony. If the Counsel here had undertaken that mode of attack, they knew very well that, like the unskilful engineer, they would have been hoisted by their own petard. They knew that we could present ample evidence, both to corroborate his statements, and to sustain his character for truth and veracity. Another mode is to impeach him, by showing the conflict of his testimony with that of other credible witnesses. No such conflict is found here — corroboration and confirmation rather. A third mode is, to show the inconsistencies and discrepancies in his own testimony. This has been attempted — with what fairness or success, we shall see, and you are to judge.

I have another consideration to present, which, I think, is demanded by a sense of justice to an humble and honest man. To him, and to his wife and children, his reputation is as dear as that of a College Professor is to him, and, in the eye of the law, is entitled to equal consideration. When I remember the load of obloquy which, coming originally from the defendant's lips, has been borne by Mr. Littlefield; the imputations which have been heaped upon him, so that, during the rest of his life, abroad or at home, his name must ever be associated with this terrible tragedy, — when I remember that those children of his must have it said that Dr. Webster, and Dr. Webster's friends, and the reckless and thoughtless who sympathized with him at the risk of injustice to others, imputed to their father, if not a murder, a most foul and unrighteous conspiracy, — when I remember, also, that he has been here upon this stand an entire day upon his examination, and taken up, on another day, and subjected to a cross-examination by those who rank with the ablest cross-examining Counsel in Massachusetts, and been subjected to all the scrutiny and sifting which their masterly powers could command; when, if he was untrue, if he was open to contradiction, his falsehood must have been exposed, — and when I reflect that he has gone bravely through it all, that he has come out of the fiery furnace of an ordeal like this, without a trace of fire upon the garment of truth which he has worn, — I put it to you, whether he shall longer continue to bear the imputation cast upon him by this prisoner, and which, with a less directness of charge, his Counsel have now undertaken to impress upon you and upon the community! I challenge your sense of justice, whether that shall not be put to rest forever!

Gentlemen, are we here in a Christian Court-room? If he had contradicted himself, or been contradicted by others — if he had been proved to have done anything which opened him to such an attack — I should not, most certainly, stand here to defend him. But he is charged with having told you an improbable story. We will see if he has done so, in a moment. My present purpose is, to show that injustice is done to the man. If that is the case, there is no defence for Dr. Webster. For it is certain, that, these remains being there, it must have been known to Littlefield or Webster. And I think,

besides, it could not have been known to Littlefield, without having been known to Webster.

I do not put Mr. Littlefield upon this stand as a man of culture — of nice, delicate moral sense; but I put him here as an honest man, who fills reputably his position in life — a useful, though humble one — and in that position commands the confidence of those who know him best, and are best able to judge of him. During all this period, when the keen, sharp eyes of the police were upon him; when, as constable Clapp tells you, and as Mr. Kingsley confirms him, every nook, and corner, and crevice, every pocket, every place on his premises, was searched; when they had their eyes upon him, scrutinizing him every moment, — that nothing should have been discovered, — that, what is of more importance, he should have been retained in his place, ever since, by those very Professors whose associate had been taken off to the cells of a prison upon his accusation, thus manifesting their confidence in the accuser, if not their conviction of the guilt of the accused, — I say, that, under these circumstances, he is entitled to some expression of their sense of justice, from the whole community, if there is any sense of justice left in it. It shall be no fault of mine, if he does not obtain it. So far as my humble voice can bear witness to my convictions of his truth, I should feel that I was false to every sentiment of justice, to every conviction of duty, if I did not utter it.

Where, then, do we show Mr. Littlefield to have been? And where do they show him to have been? For, if he was not where the Government proves him to have been, they could have called these persons to have contradicted him. They could have called Drs. Holmes, Jackson, and Hanaford; Messrs. Harlow, and Thompson, and Grant, to show whether he spoke the truth. But we could not. I should have added, also, the members of the Suffolk Lodge, where he went on the Tuesday night. All his whereabouts, during the week, have been open to contradiction. He had spread himself just as broadly as the Counsel could desire. There is not a syllable of conflict. A miserable attempt was made to show, by the old man, Mr. Green, that he had said he was present when the conversation took place with Dr. Parkman. Even he concludes, that, upon the whole conversation, he was mistaken in his first impression. But the very man who took part in that conversation is put upon the stand — Mr. Todd — and proves conclusively that he did not say any such thing.

Now, Mr. Littlefield is entirely uncontradicted here. Let us see what his conduct was, — and I shall go over it more cursorily than I otherwise should, if I did not rely upon this proposition, which you will assent to, that in all that Littlefield has said, he has been open to contradiction. He has been carried over all this period of time; and he has not been contradicted, he has been left unimpeached, and by Counsel who would leave nothing undone which could be done to serve the interest of their client. Then, I say to you, that I think you are bound to receive and accept the testimony of Mr. Littlefield as true. For whatever there has been in it that has been the subject of comment — that looks unreasonable — we have an explanation. In my view, there is not a single act testified to that is not perfectly explicable, and explained by the theory that he had con-

ceived a suspicion, which, in my opening statement I put before you, he conceived as early as Sunday night. The fallacy of the argument of the Counsel will be shown, in commenting upon Mr. Littlefield's testimony. He asked why he did not do this, or that. "Extraordinary conduct," he exclaims, "that Littlefield should have gone to Webster's room Friday night, after coming home late in the evening!" He took that fact, without considering the others, — that he went, at the same time, according to his custom, round into the dissecting-room and the entries, to fasten up the building. Why should he not try Webster's rooms also?

There are other objections to his testimony: — "receiving the turkey;" "heat of the fire felt on his face, as he passed through the entry." Are these suspicious and extraordinary actions? The whole fallacy of the argument is, that the Counsel proceeds upon the assumption that Mr. Littlefield's suspicion, on Sunday night, was a settled conviction. Mr. Littlefield has not the command of language. When he says he has a suspicion, what is it? Consider the relations of the two men. Here was Littlefield, conceiving, on grounds which I think you will justify, suspicions against his superior, upon whom he was dependent, in some degree, for his daily bread. Those were checked by his wife — "For mercy's sake, don't ever say or think of such a thing again." But he could not help thinking of it. Originally, when Dr. Webster told him, with his downcast eyes, that he had paid Dr. Parkman, and that Dr. Parkman grabbed the money, and ran off without counting it, — when he found, in connection with this, that Dr. Webster pursued the unusual course of keeping his doors closed against him, — why should he not entertain the suspicion? When Dr. Webster went on, through the week, in the same way; when he was learning that public sentiment was settling down, decisively, upon the idea that Dr. Parkman's remains would be found in that College, and nowhere else; when it came to the point that that College might have been the scene of a riot and a mob, — then he commenced a search in the only place unexamined — acting upon that honest suspicion, early conceived, honestly entertained, but still cautiously acted upon, — cautious, because, if it should turn out to be erroneous, where would he be? Suppose he had undertaken to have broken through the door of that privy; what would Dr. Webster have done, if he had caught him there, and his suspicion had turned out to be unfounded? It is not a conviction that he is to find anything, not a probability, not an expectation, perhaps, but a suspicion, arising out of Dr. Webster's conduct. Was he the only one? Were there not suspicions from others, who had interviews with him? What was Mr. Samuel Parkman Blake's feeling, when he came from that interview? And yet, Mr. Littlefield is denounced, for having entertained a suspicion which he did not consistently act upon. I maintain that he did act upon it consistently, when you consider the relations between him and the Professor; and that he should have gone, in the manner he did, to Dr. Jackson and Dr. Bigelow, shows the confidence of his suspicions at that time. That he should have created no disturbance, and have made a very cautious, hurried, and imperfect examination, when he went in on Wednesday, is perfectly natural.

I may as well answer, here, the objection of the Counsel, that he

took the turkey. Why should he refuse it? Should he refuse the only present ever given him by Dr. Webster, and thus tell him his suspicions? It don't appear that he ate it. But it does appear that he did not dine at home on Thanksgiving day; so that all the pathos and poetry of my learned friend, about his eating that consecrated meal, received from a murderer, is entirely lost! [Laughter.]

Then the warmth of the fire felt on the face! Why should he not feel it? As I understand it, when there is an intense heat in that furnace, the wall would be heated after the fire had gone down; and the heat of the wall need not have to be very great, in order to feel the warmth in a narrow passage. Is there anything in that objection? At all events, Mr. Littlefield swears to it, and he is an unimpeached witness; — and I feel authorized to say of him, as the Counsel did of another witness, an unimpeachable one.

Then the search made in the laboratory! Why did n't he break into the privy-door? He had alluded to it once, in the presence of the police, and *they* did not choose even to ask Dr. Webster to open it. He was not going to expose himself to the maledictions of Dr. Webster, if he should find nothing there. But when the cloud thickens round the College, he communicates his suspicions to the Professors, and one of them tells him to go through the wall before he sleeps. Why should not the suspicions attach to my friend Dr. Bigelow, here, [who sat beside the Attorney General,] or to Dr. Jackson? Why did n't they say, Go into that privy, and put a lantern down, and discover what you can? You are not to assume that something decisive had been discovered about Dr. Webster, and that Littlefield knew that the remains were there, or that he suspected that they were there to the degree that the Counsel seems to believe. He held the suspicion cautiously, as a man naturally would hold it, and acted accordingly. Then there was secrecy pledged on the part of Dr. Jackson. Of course, *secrecy!* Secrecy all through, until something was discovered! And when those suspicions ripened into certainty, as they did when the remains were found, then, if Mr. Littlefield were not an honest man, and an honest witness — if he had a purpose to implicate Dr. Webster, why did not he point out the tea-chest? why did not he point out the bones? He did neither.

Now, Gentlemen, if there is anything, in any system of law, which lies at the foundation of all justice, it is that, if a man is to be put upon his trial, he should first be accused. And that is what my friends on the other side have been insisting upon. They say that we have not charged Dr. Webster with sufficient precision, in our indictment. They did not undertake to charge Littlefield at all; and yet they undertake to try him; and it is the breath of an advocate alone which is to fix and fasten infamy upon an honest, though a humble man. Gentlemen, is that justice — Christian justice? Let them come out! Let this prisoner have come out, through his friends and his Counsel, and, in the open face of day, have undertaken to fasten this charge upon Mr. Littlefield, and it would have been met—successfully, decisively met! Remember, Gentlemen, that, at a critical period in the history of these events, this prisoner and this witness, Littlefield, have once been face to face. Littlefield has confronted him. The dependent has stood up before the superior; — the superior has been dumb before the dependent!

Remember the testimony of all the witnesses who were at the College as early as Tuesday of that week, that, when the significant allusion was made to the privy on the first day, and to the privy-key on the second, that Littlefield, in a natural manner, stands up before the Professor, and says, "That is Dr. Webster's private privy. He is the only person who has the key;" and Dr. Webster bows them politely out of the door. And when the key was asked for again, on the second occasion — the Friday of the arrest — Mr. Littlefield said again, "Dr. Webster keeps that key." What, then, does Dr. Webster do, with respect to Littlefield? This man, whose accusation against him is to strip him of name, reputation, perhaps life itself — what does he answer? "He is dumb before the shearer. and opens not his mouth."

When he gets to that dimly-lighted laboratory, standing off nine feet, at the nearest, from the body, he pronounces upon the identity of these remains; and yet, he does not hesitate, behind Mr. Littlefield's back, to charge him with conspiracy against him! But before his face, what does he do? What would an innocent man have done, when face to face with the man whom he says he always hated — although he began to manifest some kindly feelings on the Tuesday before, when he made him the first and only present he ever made, in an intimate intercourse of seven years? When confronted there by him, as an innocent man, he would have said, "Why, Mr. Littlefield, you have had access to my rooms; you can explain this." But not a word! — *not a word!* When the two men were together, there was foreshadowed what has since been followed up, and made clear to every eye. Littlefield has spoken out everything; — Dr. Webster has spoken out nothing. Now, through the breath of his Counsel, is this witness to be attacked, before a Jury and before the world, as not being entitled to credit and belief? No, Gentlemen! go down into your own hearts, and see what justice you would demand for yourselves, in a case like this; and what you would demand for yourselves, extend to him! I ask no more.

I should have added another thing that was unmistakable in the conduct of Littlefield — the conduct exhibited by him when those remains were found. He and his wife were examined here separately — apart from each other. What a field was thus opened to the defendant for detecting untruth and inconsistency, if any existed! It was impossible for them to have imagined what questions would be asked them; and, if there had been anything untrue in their answers, would not have Mrs. Littlefield crossed her husband's track, in a rigorous cross-examination? And yet there is not a particle of conflict. "When he came up," says Mrs. Littlefield, in simple and truthful phrase, "he *bursted* out a-crying." The Counsel talks about Mr. Littlefield being the janitor of that College, and therefore familiar with subjects of dissection. True, Gentlemen; but even he, familiar as he was with them, when that awful truth, which had been but first a vague suspicion, and had kindled its flame in other minds gradually along through that week, till he had been compelled, from his fear of what might happen to the College, to go into that vault, — when that ripened into the certainty that the remains of Dr. Parkman were there — that the founder and patron of the institution had had his mutilated and dishonored body thrown down under its basement —

even he could not choose but weep! Was it not a natural expression of feeling, which would thus have been extorted even from a man of flint, — which you see, by his appearance on the stand, that he is not? What opportunity had Littlefield to be in any way concerned in this matter? Mr. Littlefield was in Dr. Holmes' lecture-room within five minutes, probably, of the time when Dr. Parkman entered that building.

Chief Justice Shaw. Did he not go into Professor Ware's room?

Mr. Clifford. Yes, your Honor. But he went to Dr. Holmes' before the close of the lecture. He assisted him in what he had to do, after his lecture was finished. He then came down, with Dr. Holmes, at a quarter past two o'clock. Now, we cannot ask Dr. Holmes the question, whether that statement is true, because Littlefield having stated it, and being unimpeached, he could not be corroborated; but they had it in their power to contradict him, if the statement was untrue.

Then, according to Littlefield's testimony, he made his preparations for the fires in the furnaces of the medical lecture-room and the dissecting-room; and also prepared the stove in Dr. Ware's private room; and at three o'clock Dr. Bosworth calls there, and finds him engaged in these accustomed occupations, and in his ordinary dress. There we have Littlefield, at five minutes before two, at a quarter past two, at three o'clock; and then, at four o'clock, he was lying down, as we prove by his wife's niece; and Mr. Pettee calls, and testifies that he saw him. And then we find, from half past five to six o'clock, he dresses himself, and goes to Mr. Grant's dancing academy, and he is there that whole evening. Now, where is Dr. Webster?

Then there is another consideration, with which I shall leave this matter. If Mr. Littlefield had anything to do with that body, he had access to that receptacle of the bones from the dissecting-room, and could command an entrance to it; his throwing anything down in it would have excited nobody's suspicions who might be passing through the entry; he understood that lock, and if he had those remains there for any other purpose than for the gross and incredible purpose I have already discussed, — of fastening suspicion upon Dr. Webster, — he could have deposited them in the dissecting-vault, beyond all doubt.

The question is asked, why did not Dr. Webster deposit them in the dissecting-vault? Two satisfactory reasons! You know whether he had access to it. I very much doubt whether he knew where the key was kept, or could have unlocked it, if he did. When you visited the building, Gentlemen, you tried that lock, and ascertained for yourselves how difficult it was to unlock it. The other reason is, that he was exposed, while there, at any moment, to observation, from the students, who were passing, day and night, to that dissecting-room.

But all these possible alternatives of what he might have done suggest another consideration; and it covers a large portion of the Counsel's argument, about the folly of the prisoner, if he was really guilty. When you are tracing the history of a criminal — when you are attempting to mark out the course which he has pursued — you must remember, that, in judging of his course, and in weighing his conduct, in your anxiety and your conscientiousness of purpose, to arrive at the truth, your own honest hearts can furnish you with no

common standard. What he would do, you cannot easily conceive. We always hear of the folly of a criminal. It is very rare that a great crime is committed without prompting such remarks as, "that he would not be fool enough to have acted so unwisely, so indiscreetly." It is not in the order of Divine Providence, that a man engaged in a criminal enterprise shall retain the possession of those faculties which were given him to be used in the work and the ways of virtue. And the course he takes may be, to the intelligence of the merest child, the extremest folly, when, in his own mind, it is the height of adroitness and art. Crime is foolish; it has always been so, from the beginning; it always will be so, until the end. It is as true now as it ever was, that "guilt bedarkens and confounds the mind of man," — that "human will, of God abandoned. in its web of snares strangles its own intent."

One further suggestion, arising out of the proof in this case, may impress your minds, as it has my own. If a man has an object which he wishes to get rid of, the possession of which is fatal to him, or, rather, the world's knowledge of the possession of which would be fatal to him, what is the most obvious thing that occurs to him, as the instrument and agency of destruction? Fire! fire! — for that reduces the organized structure to a mass of undistinguishable ashes.

Mr. Foreman, suppose, to-day, a person should intrust to your keeping the simplest thing, with an injunction upon you, that your possession of it must not be known to any human being; that the discovery of it in your possession would be ruinous and fatal, involving your reputation, your liberty, your life. Now, put it to yourself, in what manner you would endeavor to dispose of it, so that all trace of your connection with it might be beyond the reach of human discovery. You might have an opportunity to bury it. Still, the fear would arise that some person might exhume it. It would burn. You must get rid of it. "And yet," you say, "if I leave any trace of it, I am not certain — I am not safe. Its relics may come up at some future time to confront me. If I throw it into the sea, that sea may give it up again; and it may be traced to me. But if I can destroy it by fire, I shall be secure."

It is not the possession of the thing, but the terrible consequences that will follow from the world's knowledge of that possession, that renders its destruction so difficult and perplexing to him upon whom those consequences will be visited. A narrow line, marked out upon a level floor, may be confidently traversed by a child, without an inclination to either side. But broaden that pathway ten-fold, and let it stretch across a chasm, and the man of the firmest nerves, and the most practised self-command, would no more dare to cross it than he would to

> ——— "O'erwalk a current roaring loud,
> On the unsteadfast footing of a spear."

And so with this learned Professor! For in that his intellectual self-discipline makes him no exception to the common lot. When he had that body to dispose of, he had two things to do. And we come now to a consideration of what he did, to show his connection with the murder of Dr. George Parkman. He had, I say, two things to

do: one, to destroy the body, and all things pertaining to Dr. Parkman, whether of his remains or his effects; and, at the same time, he was to avoid suspicion. He was to keep up his natural and customary deportment. He was not to seem to be embarrassed anywhere — he was not to be caught anywhere, or at any moment, off his guard. If a person spoke to him in relation to Dr. Parkman, he was to be in a condition to meet the subject with calmness and self-possession. He was to maintain that external demeanor which would enable him to go to Professor Treadwell's, and sit down and converse upon indifferent topics. He was to make it appear that he was at Cambridge at times inconsistent with the destruction of that body.

But, it may be said, that, although this was his obvious course of conduct, if he could so command and control himself, yet, that it was not within the compass of his, or of any man's power, to accomplish it. Gentlemen, you have seen him here, through these two past weeks; you have seen what his deportment has been, during all the solemnity and impressiveness that have marked the progress of this trial; you have seen him, when others were affected to tears, — when the Judges upon the bench, the Counsel at the bar, the witness upon the stand, the entire audience throughout this hall, were unable altogether to repress their emotion; you have seen him when his own daughters were upon the stand, and even the hardened heart of a public prosecutor was too much moved to subject them to a cross-examination; through all these scenes, is not he a psychological phenomenon, who, like this prisoner, innocent or guilty, could remain unmoved? Never has he blenched but once, — never, but when detection, exposure, discovery, yawned before him. Then, he drooped and fell prostrate. as innocence never did. That prostration continued through all the horrors of that night of his arrest, and the day that followed it. And when reassured, by the visits of his legal friend and adviser, he rose again to the great conflict, and was calm; calm everywhere, at all times, under all circumstances; so long as he had anything to resist, to fight against, this power has been at his command; — it has failed him only when fear — the fear of exposure, detection — like the sense of guilt, crushed all his manhood out of him. "Take any shape but that," he has been able to say, "and my firm nerves shall never tremble"

Mr. Franklin Dexter (who was sitting near the prisoner's Counsel.) Is there any evidence that I interfered in this matter?

Mr. Clifford. There is evidence, sir, that you was sent for to visit him at the jail.

Mr. Dexter. I should like to know who testified to it.

Mr. Clifford. Gentlemen, I shall have occasion to advert to this again. I am here to discharge my duty with fairness and justice to everybody, but with fearlessness also, whatever may be the impressions of those around me. I have mentioned no man's name, and alluded to no man's presence, who does not appear in this cause.

I now come to state the evidence which attaches to the prisoner, and shows him to have been connected with the murder of Dr. George Parkman. We have waited for an explanation of this evidence, and we have waited in vain. Undoubtedly we repel, as by an instinct, the presumption that such a man as Dr. Webster could commit such

a deed. I was not unimpressed with the comments which the Counsel made in view of such a proposition.

His former fair reputation, as shown by the evidence, is admitted. The fact that he held a Professorship in Harvard College is evidence enough of this. And it is honorable to us, that we do hold education in such respect, that, when an educated man, and a man holding a high social position, is charged with a crime, our people — not the educated alone, but the humble, the illiterate — repel at once the probability of its truth.

But, Gentlemen, we deceive ourselves. The annals of crime forbid us to indulge this pleasant delusion. We have been too much accustomed to regard it as native only to the low levels of social life, — as skulking out from its dark hiding-places of squalor, ignorance, and depravity, to inflict its deadly blows upon society. But the history of great crimes of violence shows us that neither intellectual culture, high social position, nor even the refining influences of cultivated domestic life, can prove a shield against strong temptation, acting upon a frivolous and neutral character — upon a character that has not its anchorage deep and firm in steadfast religious principle. There is a class of character, thank God! and we have instances around us now, which, of itself, would be almost sufficient to countervail any amount of circumstantial proof that those who bear it had been seduced into crime. But the proof in this case, which shows the connection of the prisoner with Dr. Parkman, forbids us to class him in that category of men of unapproachable virtue. It prompts rather the sad suggestion — "See what a goodly outside falsehood hath" — when we see the best and purest men among us take the stand to testify to his former reputation.

This case must go far to correct the popular notions on this subject. It must impress us with the great truth, that out of the *heart* of man, not out of his *head*, are the issues of life, and all those restraining influences which keep him in the way of virtue. If the influences which come from within are wanting, no matter what his degree of intellectual culture, no matter what the graces and accomplishments of which he is master, no matter what may be his reputation among those who can see only the outside of the man, — when the great trial of temptation comes — the temptation, it may be, to keep from exposure and ruin that very reputation, a fair though a false one — he knows not, no one can know, what "he may be left to do."

The work of spiritual dilapidation may have been going on within him, unobserved by the world's eye; and the first indication that the fair outside fabric of his character is not free from crack or blemish, is in its sudden, utter, and irretrievable fall! There never was a maxim so much perverted in its application as that which has been cited and dwelt upon by the Counsel, both in the opening and the close, that "No man becomes suddenly vile." This may be true; but it does not follow, that the first overt act of guilt is the first step from virtue. It is the first, perhaps, that the world sees; and yet the world's judgment may have been long an erroneous one.

Between such a man as I have described, and the poor outcast, with whose face the prisoner's dock is associated, there are two modes in which the world arrives at its decision, and pronounces its judgment. We tried, the other day, in a neighboring county, a man born

and bred among us, under the influence of our institutions all his life, for the murder of his wife and two sleeping children. For one in his condition, insanity was the ready and obvious defence, — while, if he had been an educated, gently nurtured, simulating sinner, the cant of the day would as obviously suggested the other answer, that the moral evidence outweighs the circumstantial proof — such a crime could not have been committed by such a man!

No, Gentlemen! wherever, and in whatever outward circumstances, you find the *heart* of man, with all its deceitful passions, and, in the strong language of Holy Writ, "its desperate wickedness," there you will find the liableness to and the potentiality of crime.

And it is fortunate for society, that it is upon no fine theories, which it may be pleasant but fatal to us to cherish, but upon the legal proof presented to them, that the duties of Jurors are to be discharged.

You are to try this prisoner upon this proof; and from that, you are to say, as reasonable men, whether this charge against him has not been made out by the Government.

Before going to that proof, it may be proper for me, as a set-off to some of the cases cited by my friend on the other side, in his opening, to present a few historical cases of an opposite character. I have before me a list of them, from which I will select two or three, the study of which leads to the precise result to which my recent remarks have tended, and which are an answer to those cases and those considerations which were presented to you by the Counsel on the other side.

It is now just about one hundred years since, in our mother country, an accomplished scholar, a lecturer and teacher, was arraigned before the highest judicial tribunal of that realm, to answer to the charge of having murdered, twelve years before, another man, for money. And the evidence that that man was dead was the discovery of his bones in a cave, where they had been deposited by the murderer. During that interval of twelve years, that murderer, with the red stains of blood upon his hands, had wielded the pen of a scholar; had corresponded with the most learned men; was engaged, at the time of his arrest, in the preparation of a most learned dictionary, which embraced a knowledge of other languages besides his own. That accomplished scholar, *Eugene Aram*, who has been the subject of a celebrated work of fiction, of a history stranger than any fiction, was tried, convicted and executed, for that murder, committed twelve years before.

So with a reverend prelate of the Church of England, Dr. Dodd, who was executed, during the last century, for a crime, which the whole civilized world held up its hands with horror, to find perpetrated by a man like him. And yet, he confessed it all.

But we need not cross the ocean or the century to obtain such instances. Take the case of Colt, in New York, for the murder of Adams. There was an indebtedness, and the victim was beguiled, by an appointment, into the place of business of his murderer, and slain for a paltry debt.

The case, in New Jersey, of Robinson, who killed Mr. Snydam in his own cellar, and, by a strange concurrence of circumstances, was detected, was tried and convicted, then confessed, and was executed, is another instance.

Take the case of another educated man, Dr. Coolidge, of Maine. What was there to have prompted him to crime, any more than the unhappy prisoner here? No, Gentlemen! it is not in any considerations derived from the cases cited by the defence that you are to look for the exculpation of this prisoner, or to have the weight of this evidence impaired in the least degree.

Reputation is one thing, character is another. A man who could do what is proved by the most incontestable evidence the prisoner has done, cannot come here, and stand before a Jury, and put himself upon his character, and nothing else, without asking them first to obliterate all moral discriminations, and to surrender to a *prejudice* the real convictions that the facts must force upon their minds.

Now, Gentlemen, let us come to the consideration of the facts which go to show that Dr. Webster was concerned in the death of Dr. Parkman. I think I have shown hitherto that Dr. Parkman never left that building after he went into that College; that all the evidence of his having been seen that afternoon is really of no account; that he could not have been slain by any other person; that it could not have been done, especially by Mr. Littlefield. And now, we come to the consideration of this great question — Was he slain by the prisoner at the bar?

First, let us consider the relation which Dr. Webster bore to Dr. Parkman. I do not know that I care to have a better description of that than was given to you by my learned friend who closed this defence. He expressed it in connection with the proposition, that, if he did commit the act, it was manslaughter, and not murder. He represented him, and I adopt the description so far as it shows Dr. Webster the debtor whom his creditor believed had done him a fraudulent wrong, and that Dr. Parkman was acting upon that belief, in pressing for the payment of his debt. And I think it is true, that, when you take into account the fact that Dr. Webster had promised Dr Parkman, from month to month, and from week to week, and from day to day, up to the time of that fatal Friday, that he should have his money from the proceeds of the sale of his lecture-tickets; then, when he knew that all the proceeds of those tickets were appropriated to other objects — that he could not pay him from them; when you see, also, that Dr. Parkman held a mortgage on his household furniture; when you see that he had threatened him with exposure; — for it appears, from a communication made to Dr. Parkman by Robert G. Shaw, that, on the 9th of November, two days after the lectures commenced, Dr. Parkman calls upon him; that on the 12th and 14th he calls on Mr. Pettee; that on Monday, the 19th, he calls on Dr. Webster again — which is an important fact ignored by Dr. Webster; that afterwards Dr. Webster sent a note to him, which the Counsel regretted could not be here; — I join in that regret; every possible search has been made for it; he doubtless had it in his pocket when he was murdered; — when that is followed up by a visit to Cambridge, on Thursday; and the toll-gatherer tells you that he came down to the bridge, about that period, more than once, inquiring for Dr. Webster; when we consider all this, we have a pretty clear understanding of the relations between these parties.

Dr. Parkman is following him up continually. For what? Dr. Webster has no money to meet him. What is his condition? Here

is this creditor, inexorable, as he calls him, and as his Counsel echoes — *inflexible*, I think, would have been more just. The cloud over him is broadening and blackening, day by day. What can he do? What is he exposed to? The disclosure to the world of his false but fair character! The exposure of his fraud! But more, and that which comes nearest home to the bosom of such a man — for I grant you he has strong domestic affections, and warm attachments — that which comes nearest home to the bosom of such a man is, that all his effects were liable to be seized, at any moment, and his home stripped of that which stood as security for his debts. His household furniture was all that was left. The minerals, as you will see, when you examine the mortgage, were already disposed of, and money raised on them to pay his debts. That had all been exhausted. You will see, by the papers we put in, that his friends' benevolence and beneficence had been exhausted, and he had no resources left. He was left stripped and bare, to receive the shock, coming upon him from this creditor, whose just indignation he had reason to dread. What was involved in this impending blow, which he thus feared was about to be struck *home* upon him? The loss of caste! The loss of reputation! For he could not stand an hour, with that reputation assailed and exposed.

Now, Gentlemen, when you come to motive, I undertake to say, that no poor, illiterate outcast, from the dregs of social life, who prowls out from his hiding-place to steal the bread for himself, starving, or for his starving wife and children, ever had a motive which addressed itself with more force to him, than was thus addressed to this prisoner by circumstances like these, to get rid, in some way, in any way, of this tremendous cloud that was darkening all around him, and deepening every hour. Certainly he was the last man with whom Dr. Parkman is shown to have been in contact. Dr. Parkman is found dead on his premises, and under his lock and key; and he gives no explanation. His property is found in his possession; and he gives a false account of how he came by it. His body is mutilated, under such circumstances as I have shown you could not exist without the prisoner's knowledge. His own movements, acts, declarations, and the unconscious disclosures which his fear of detection wrung from him, are evidences of his guilt.

Now, Gentlemen, what were his financial relations to Dr. Parkman? Here is a most instructive chapter. Dr. Parkman had held two mortgages: — one to secure the $400 note, which was given in 1842; and another, which secured that note, and another note for $2432, which was given in 1847. The mortgage that was given in 1847 covered all his household furniture, all his books, minerals, and other objects of Natural History. That cabinet had been disposed of, so that all that was left to secure this mortgage was the household furniture, and what books he may have had. That $2432 included the $400 note.

In 1842, Dr. Parkman had made a loan to Dr. Webster of $400, and had taken a mortgage.

Judge Merrick. There is no evidence of it.

Mr. Clifford. It appears that it was so. He took his note for $400. In 1847, a loan is made to Webster, of which Dr. Parkman contributes $500. The whole amount of that loan is $1600. In

addition to that, there is a balance of $332, which is included as an indebtedness to Dr. Parkman; $500 contributed, and $332 which is still due on the $400 note. Dr. Parkman takes the mortgage for himself, and for all the other contributors, in his own name. Dr. Webster, in the mean time, according to the statement found in his possession, made by his friend, Mr. Cunningham, had paid all Dr. Parkman's portion of that loan, except $125, which the Doctor, as a mere act of kindness, had given up.

Now, in April 25th, 1849, the actual indebtedness from Dr. Webster to Dr. Parkman was $456.27. That was made up of three items. The old balance of $348.83, upon that $400 note; $125 of the new loan, and from these is to be deducted $17.56, which Mr. Cunningham says Dr. Webster has a receipt for. Those, you will see, are the items which make up $456.27; and they are all due at different times. All Dr. Parkman's interest in that $2432 note is included in the $456.27. Then Mr. Cunningham tells him,

"You owe	Dr. Parkman	$456.27
	Mr. Prescott	312.50
	Mrs. Prescott	125.00
	Mr. Nye	50.00
	Mr. Cunningham	25.00
		$968.77."

Now, do you think that Dr. Parkman, with his habits of business, intended to go to Cambridge and cancel that mortgage? You will remember that I invited the Counsel to explain this. But they stopped their evidence at this point, and so it stands upon the papers. Now, Dr. Parkman never intended to carry that mortgage to the Medical College, with any such purpose. Other parties had an interest here. He says, on this very note, that the other mortgage of the $400 note is to be cancelled, when he receives $832 on the large note. He had received $375 before Mr. Cunningham made his examination. Then there was a balance due him, as we have shown, of $456.27.

Chief Justice Shaw. What was the date of the note of 1847?

Mr. Clifford. It reads as follows: —

"*January* 22, 1847.

Value received, I promise to pay to George Parkman, or order, twenty-four hundred and thirty-two dollars, within four years from date, with interest yearly; a quarter of said capital sum being to be paid yearly. JOHN W. WEBSTER.

Witness:

CHARLES CUNNINGHAM."

You see that this note is at four years. That reminds me of another thing; — it was not due. "Value received, I promise to pay to George Parkman, or order, twenty-four hundred and thirty-two dollars, *within four years.*" But a quarter of it only was to be paid yearly. If he did expect to get his pay, what would he have done? Would he have given up that note to him, leaving his friends to seek their remedies as they could? Dr. Webster had his statement from Mr. Cunningham in April, 1849. It was a sum without interest.

Having obtained these notes from Dr. Parkman — having got these notes into his possession — he is to make up his story; and, in order to do that, he must fix upon the sum he had paid to Dr. Parkman. He did not owe Dr. Parkman $483.64, on the 23d of November. We prove that by his own documents; we prove it by the papers found in his own wallet. He sets down to frame his story; — and there is the most extraordinary document ever found in the pocket of an honest man. You will remember the interviews he had with Dr. Parkman. On the 9th of November, Dr. Parkman calls on him. On Monday, the 19th, he calls again, and leaves him with that declaration, "To-morrow something must be done!" The next day, he writes the note. You will find that the Monday night of the interview is entirely ignored. Nothing is said about the Doctor's going over to Cambridge to see him; nothing between the 9th and the fatal 23d. What is the story he prepares? He tells it twice on the same piece of paper. What is the object of that? Is a man keeping a journal on such a piece of paper as that? If he were, it is important. If he is writing an account in consequence of the disappearance of Dr. Parkman, why, he had already communicated it to Dr. Francis Parkman, to Mr. Blake, and others! But, Gentlemen, there is intrinsic evidence that here, on the 23d, he did not owe Dr. Parkman $483.64. That was not the sum he owed him. He is to set down and fix that sum. Here is his paper: —

"Nov. 9th, rec'd $510
For Dr. Bigelow 234

Pettee, cash $276.

Dr. Parkman came to the lecture room — took the front left hand seat." — Of what importance was that? — "Suddenly stopped, came to me, and asked for money. Desired him to wait till Friday, November 23d," — thus, you see, stepping over entirely the evening of the 19th, — "as all the tickets were not paid for, but no doubt would be then. A good deal excited! Went away! Friday, 23d, called at his house about nine; told him, if he would call soon after one, he should have the money. He called soon after one, and I paid him." Now, there is added to that, at a different time, with different colored ink, '$483.64." There is added, "Said I owed him $483.64." This would imply that he had fixed upon his story. Here are his own figures; and yet he states that Dr. Parkman says he owed him, on the 9th, $483.64. Then he says, on the 23d, after a half month's interest, that he paid him just that sum. Do you think, if Dr. Parkman was standing on points like these with this man — that if he owed him that amount on the 9th, he would not have insisted on the one or two dollars interest which would have accrued on the 23d? Do you think he would say nothing about the continuing of the interest to the 23d?

Then, on the paper which Dr. Webster wrote afterwards, I think you can see, between his writing these two pages, that he had fixed this amount in this way:

"$456.27 due April 25th, 1849.
27.37 interest.

483.64.

Now, if you will reckon, you will see that that is six per cent., which would carry it over to April 25th, 1850. Do you think that Dr. Webster would have paid a year's interest, when only seven or eight months' was due? But perhaps you will say that he did not do it, and that this amount is made up from other items — from the $125 and the $17.56, to which I have already alluded, which was a receipt of money which Dr. Webster had paid Dr. Parkman. But he evidently did do it by casting this year's interest, as we show by his own figures. Now, to say that you are to cast six per cent. on all the above items is palpably wrong, because he had different times for which to compute the interest on the several items. The computation is made of the six per cent. on $456.27, and it brought him $483.64.

Now he says, "9th, due Dr. Parkman $483.64, by his account. Desired him to wait till Friday, 23d. Friday, one and a half, paid. He to clear mortgage," and the other matters, which are not material. You will have the paper with you, and you will see for yourselves.

Here is another piece of paper. Here is found in his wallet a little piece of paper bearing the figures $483.64, and another little piece which had reference to something else — "Jug — keys — tin box — solder!" I do not care to go into that. Why is this memorandum of $483.64 put into his pocket and carried about? It is evident that it is all a falsehood. But it is a fiction which concerns his reputation — which concerns everything near to him — that he should be consistent in; and it would not do for him to change it. Having committed himself to Parkman and Blake, he must adhere to his statement to them. Lest he should omit, by some slip of the tongue, giving the right amount, he carefully puts down $483.64, and puts it into his wallet; and carries this, a double version of the affair, omitting two interviews, making a rate of interest which did not exist! And then, Gentlemen, what is more important than all, there is found, in the way in which you have already been apprized, through the letter written to his daughter, "Tell mamma not to open the little bundle which I gave her the other day, but to keep it," — a bundle that turns out to be these two notes. And yet, from beginning to end, he represents Dr. Parkman as taking that money from him, turning suddenly round, and dashing his pen through the signature. He says not a word about two notes, expressly confining his statement to one piece of paper. And yet, here are found in his possession two notes, bearing those marks, which, if made by Dr. Parkman, must have required those dashes to have been made, as it is proved neither one of them was made by a pen. That is placed beyond question, by the uncontradicted testimony of both the experts, — Mr. Gould and Mr. Smith. We can show you how it might have been done. You will have an opportunity to see how it might have been done, by a peculiar instrument found on his premises. But, at all events, he has falsified; and it is not the most serious thing about which he has falsified.

AFTERNOON.

[Mr. Clifford resumed his argument, and continued as follows: —]

I hope, Gentlemen of the Jury, I shall very soon relieve you and myself from the examination of this painful case. I am aware I have

already occupied more of your time than I expected I should have occasion to, and I thank you for your patient attention. But there is a duty resting on me which I cannot evade. I proceed now to consider, in connection with the remarks I have already submitted to you this morning, the proposition that Dr. Webster has falsified, notwithstanding all his declarations; and you will judge how consistent those declarations are, when you come to consider the statements he made to James H. Blake, to Mr. Littlefield, and to Dr. Parkman, on Sunday, in connection with the statement to Mr. Thompson, his own witness. This last-named witness, under his own hand, has testified that Dr. Webster told him there were two persons present when he paid the money; and he now states that he thinks he was told there were two persons present, though he is not quite certain that this was the statement — but that there were two persons, one of whom was the janitor, who had just left. Now, either of these statements was untrue.

Then the statement he made to Mr. S. P. Blake, about his intrusting the mortgage to Dr. Parkman, to carry it over to Cambridge to cancel it, is untrue. Dr. Parkman would never have attempted to cancel that mortgage, involving as it did the interests of other parties. Then, take all the circumstances under which he states that Dr. Parkman received that money, and went out from that building with the bills in his hands; — I put it to you to say whether that representation was true.

I now come to a more serious matter still. I say to you, that, from the evidence in this case, he told the toll-gatherer that he had paid Dr. Parkman, when he had not paid him. I say to you, from the evidence here, and from the absence of evidence, that he never paid that money at all. Take the deposits in the Charles River Bank, and the manner in which they were drawn out, and compare them, at your leisure, with the account which Mr. Pettee rendered here, as the collecting agent of Dr. Webster, of the times he paid him money.

It now appears that the whole number of students was 107. Mr. Pettee has accounted for 99. Mr. Littlefield for two. Where could he have obtained the money to pay this? Not from the sale of the tickets, the proceeds of which he had — in his embarrassed circumstances, arising out of an improvident mode of living, which, of itself, is dishonesty — devoted to other objects. A man who lives beyond his means, knowingly, and trusts to the chances of making others the sufferers, is a dishonest man.

Take these representations, and take the evidence before you, and then ask from what source he derived that money, and you have the great, overshadowing falsehood, which goes to the root of this whole case. This prisoner, and his Counsel, have never been unmindful of the great importance of showing where he got the money to pay that $483.64 to Dr. Parkman.

Let me say, that for four months he has had at his command the entire treasury of this Commonwealth, to summon here every witness from whom he had received a dollar.

Judge Merrick. How can that be? — four months!

Mr. Clifford. You will observe the Coroner's Inquest was held immediately after this terrible event. You will observe that the moment the results of that inquest were placed in my hands, they were

passed to him, before I had read them myself; and he has had them from that hour to this. I am willing to take a still more recent period — the finding of the indictment, in January, 1850. I am willing to take that as the time from whence they saw the importance of ascertaining where the money came from; but not a syllable of explanation is vouchsafed to us. And why? Because he had no money to come from any quarter — least of all, from that which he declared to the toll-gatherer it did come from — the sale of his tickets.

The law of this Commonwealth places its entire treasury at their command. Every dollar expended for witnesses, or for the officers who summon them, is paid by the Commonwealth, as well for the prisoner as the Government. He has lacked nothing, in the vigilance and acuteness of Counsel, in knowing all the points made against him, or in furnishing the means that could explain them.

Every student that attended his lectures might have been summoned. Every one who has paid to Mr. Pettee, or anybody else, could have come upon that stand, and shown us, to a mathematical demonstration, how much he has paid, and to whom. Gentlemen, not a dollar is shown!

By the comparison of these two accounts — of the deposits in the Charles River Bank, and of the payments made to Mr. Pettee — you find a perfect coincidence, with a single exception. On the 14th of November, Mr. Pettee paid him $195, and on the next day he deposited $150. And now the suggestion is, that he took out a $100 bill, of the New England Bank, and substituted other smaller bills for it; that he took out the $45; and that he was gradually hoarding up the sums to pay this note. This is too transparent a fallacy to put to the intelligence of the Jury.

We come to the unhappy conviction, that, if there is anything proved here, it is that Dr. Webster had no money to pay to Dr. Parkman; that he was compelled to prepare his statement and his story, and he did it in the manner I have stated to you.

Then, that interview with Mr. Pettee. What does it indicate? Why, Gentlemen, it was an accidental interview. Mr. Pettee states to you that he communicated no message. He calls there at nine o'clock on that fatal morning; and what does Dr. Webster try to impress upon his mind? Why, he tells him that audacious falsehood, that Dr. Parkman was a peculiar man — subject to aberration of mind — that he had placed his business out of his hands, and put it into the hands of Mr. Blake. "But," said he, "you will have no more trouble with Dr. Parkman. *I have settled with him.*" That was after he had made an appointment with him to go into the Medical College, where, separate and surrounded and walled in from all the rest of the building, his own apartments were, as Dr. Holmes testifies. And is there not a strange inconsistency in the story that he went to Dr. Parkman's to have a settlement with him? Why not have paid him there? Is there a particle of evidence that he was in a better condition to pay him at half past one than at nine o'clock? Did not Dr. Parkman do business at his own house? If he had the money, he would have said, "Thank God, I will get rid of this creditor now!" What evidence is there that he received this money between nine o'clock and half past one o'clock? Whoever there was

who paid him in that brief interval, they have had the resources of this Government to bring here upon that stand and enlighten you; and, believe me, nothing which they could do has been left undone.

If he did not pay Dr. Parkman, — and that he did not, is apparent from all these facts, and perhaps as strongly from this fact as all others, that Dr. Parkman never would have given up that note or cancelled that mortgage, which involved the interest of other parties — never in the world! — if he did not pay the money — if he did not have the money to to pay with — then how did he get those notes? You will find a little memorandum on one of them, that it was paid Nov. 22, 1849. Was that the first thought, corrected afterwards by an after-thought, that Dr. Parkman might have shown these notes to Mr. Kingsley, or Mr. Shaw, or somebody, on Friday morning; and therefore that it would be fatal to him to have it understood that he paid him then? Was it prompted, in the first instance, by the fact that at nine o'clock he had told Mr. Pettee "he *had* settled with him"? Dr. Webster did write, in his own hand-writing, "$483.64 balance paid Nov. 22, 1849."

Then, Gentlemen, the whole thing is changed. The story was prepared, as I have already told you — evidenced by the documents found in his possession — evidenced by the documents which he attempted to conceal. You remember he impressed upon his wife, to keep the bundle, and not to open it. I ask again, if he did not pay those notes, how came those notes in his possession? What becomes of all these contradictory and inconsistent theories, that Dr. Parkman was murdered by somebody else, or elsewhere? I put it to your intelligence; — answer that.

Now, Gentlemen, I shall briefly consider the evidence which goes to confirm all this.

[Mr. Bemis consults with the Attorney General.]

Mr. Clifford. I am reminded, Gentlemen — and it is a fact that I should not forget, for it is pregnant with importance — that on that Friday morning Dr. Webster did receive from Mr. Pettee a check for $90 of the proceeds of the tickets — the source from which he said he would pay Dr. Parkman, and from which he afterwards said he had paid Dr. Parkman. And yet we find, from the books of the bank, that this identical check for $90 was deposited by him, on the next day, in the Charles River Bank. I leave here all this matter of finance, with this exposition of the significant truth thus developed by their financial relations.

What was the condition of things in that laboratory when those remains were found? I shall go less fully into this than if I had not consumed so much time, so much more than I expected, upon the earlier topics of the case. There are some things which I should do great injustice to this case to overlook. In the privy vault, with the remains, there were found certain towels, which were produced here. I especially call your attention to the fact, that some of these smaller towels were marked "W." One of them, it is here clearly in proof before you, was in that laboratory, and in his upper room, on the very morning of that Friday when this fatal interview with Dr. Parkman took place.

Then, Gentlemen, that knife, found in the tea-chest! Why, the Counsel for the defence overlooked, in their comments upon this, the important fact, which they themselves had put into this case, by the cross-

examination of one of the Government witnesses, that, on the 17th of November, that knife was over at Cambridge, and afterwards, between the 17th and 23d, was brought over to the Medical College. Now it is said that that is evidence of design to fasten suspicion upon Dr. Webster, in connection with the remains; and that the minerals, which were not entirely covering the tan, on Tuesday, when Kingsley saw the fire and tea-chest, were not put there by Dr. Webster. The very fact, of that search, that Mr. Kingsley's attention was called to that — would it not prompt him to have piled on more minerals, and was not that done, evidently? And the knife was found there. It had been in his possession. And who, pray tell me, if I have not utterly failed in making myself understood, who could have done this, but Dr. Webster himself? And, Gentlemen, it may very well be said, that, if that hammer, the disappearance of which is one of the marked facts in this case, had been got rid of, he might also have been equally anxious to be rid of the knife.

The yataghan was there — a murderous-looking instrument — recently cleaned, as Dr. Jackson testified. As you will see, it is enough for me to say that here were murderous instruments connected with him, and with no other human being.

Why, too, did he have that tan sent over here in that suspicious way? Why not let Mr. Sawin have admission to his laboratory, as he had done two hundred times a year before, as he swears to you? Whether it was to be used for the tea-chest, or the tin chest, neither you nor I can tell. It is an anti-putrescent, and would stifle odor. And what is most significant, although Mr. Sawin brought over for him two empty boxes, the fagots, and the bag of tan, the bag of tan was taken into the laboratory by Dr. Webster, and the others left outside! If anybody else had done this, after his direction to Sawin to leave them all outside the door, would not Dr. Webster's eye have discovered it? There was charcoal, and anthracite coal, and pitch-pine kindlings, which disappeared in considerable quantities, during that week. The process was slow; and I will tell you why it was slow. He had those clothes to get rid of. The minutest circumstances are sometimes most important. The report of the physicians shows that there was among the remains a shirt-button; and if he separated the body from the clothes, remember that he had the clothes to get rid of as well as the flesh, thus accounting for the time expended. Then the blood upon the pantaloons and the slippers! These were treated of in a very summary way by the Counsel, as being of no consequence. I submit whether they are, or not. If they were drops of blood falling from above, then I agree that it must have had much less weight than it will have, as the facts are shown by the testimony of Dr. Wyman, that it was probably spattered from beneath.

And then those stains upon the stairs! They were there when Littlefield saw them, tasted, and found them acid. His testimony is abundantly corroborated by Dr. Wyman, who says that they were fresh. Kingsley saw them also. It turns out that they were nitrate of copper; and I defy any man to look upon them, as you have looked at them, and believe that they have not been thrown there by design, spattered, as they were, up against the perpendicular sides of the stairs. If my eyes did not deceive me — and you have had the

same opportunity to examine that I have, I submit whether I am not right. It is proved that they were fresh. And they are shown to be among the most efficient agents for removing the characteristic signs of blood. Dr. Wyman tells you water is as good for this purpose as anything. Water was used most freely; the Cochituate was always running. The party had succeeded in removing all other traces. That which confessedly *was* done would have been more difficult than the removal of the traces of blood, if traces of blood there were. If the mortal wound did produce an external effusion of blood, to the extent that would seem to be implied by the course of argument on the other side — which by no means appears from the testimony, as a man may be stabbed in the region of the heart, and all the effusion, or almost all of it, be within the chest — here were the means of removing blood.

Much was said of the overalls. We did not introduce them. I have no idea that he had on his overalls. I never made a point of it; — so all that requires no answer.

Those skeleton keys! Did he state truly where they came from, or was there a connection between them and this transaction? Was the filing done by himself? — for, remember, they were filed. And is it a probable fact that the keys that would open the dissecting-room were picked up by him in the street, and carelessly thrown into that drawer? We cannot trace the course of such a man's inexplicable conduct, any more than you can trace the course of the serpent upon the rock. But there are signs and indications which will not be lost upon intelligent men.

Then we find that, in his private room, there were grapples, made from fish-hooks, which had been purchased on the previous Tuesday; and when you come to examine them, and take the whole testimony in relation to them, you find that the first grapple was made of three hooks. You will find that they had been used; that oxydation had commenced upon them, — one of them had become quite rusty. Then one was made of two hooks; then one of but one. Then he goes and purchases, on Friday, smaller hooks. All the time flitting between the College and Cambridge, to keep up his *alibi!* — and then you will determine for yourselves whether importance is to be given to this fact of the fish-hooks.

You find, around the thigh of these remains, a piece of twine, which the Counsel have treated in a contemptuous manner, by saying, if there had been a ball of twine, he would have been as likely to have taken that as he would to have been there; — overlooking the fact that that twine was not found down in that laboratory, nor in the upper laboratory; but in the private room of Dr. Webster, to which he alone had access, and in his private drawer. And I ask you whether this does not connect him directly with the remains in the tea-chest?

Then the mode in which that body was cut up! I have adverted to the attempt to destroy it by alkalies. But I come to what is of more importance than any other fact connected with the condition of things in that laboratory. Dr. Webster, Gentlemen, carried in his pocket the key of that privy, in the vault of which were found those remains! That is a fact in this case which has not even been alluded to by his Counsel. Gentlemen, I ask you to look at that key, when you

are here, and ask yourselves the question, whether a gentleman, a man of culture, would be likely to carry around in his pocket so cumbersome a key as that, which he could, by no possibility, for any honest purpose, use anywhere else? When that key is required, what is the answer? "It hangs up yonder." It is not found there; the key of the wardrobe is found. He says,—"I do not know, then, where it is." Then that door is broken open; and it turns out, afterwards, that while they were at the jail, and before they had gone to the College, that privy-key, which locked up those remains, had been somewhere about in the prisoner's possession, and was taken from his pocket by the person who arrested him.

In the great case of Courvoisier, for the murder of his master, Lord William Russell—that case which has made all Europe ring with strictures upon the conduct of the Counsel, whether just or unjust—the great fact insisted upon was, that the bloody gloves were found in the trunk of the prisoner—put there, as it was contended by his Counsel, at a subsequent time, to fasten suspicion upon an innocent man. Here were the remains themselves found, not in the trunk of the prisoner, but found in a place to which he alone had access,—the key of which he kept in his own pocket, and the fact of which possession he denied.

And you will determine whether I have said too much, or said it too strongly, not only that this prisoner stands justly charged with the homicide of Dr. Parkman, but that his mutilated remains have been found under his lock and key.

The matter of the blankets—of new blankets and counterpanes—is inexplicable to me. Why they should have been put there, or carried there, I do not know, and you will judge. I make no suggestion respecting them.

Now, what was his conduct and his whereabouts through that week? In the first place, he was locked into his laboratory, at unusual times, during a week of official leisure. Has he shown, or attempted to show, that he was engaged in anything which required his presence there? That he was so locked in, does not depend on Littlefield's testimony alone. Clapp, Rice, Starkweather, Fuller, Mrs. Littlefield, Mr. Samuel Parkman Blake, Mr. Sawin, who had often gone there before, testify to it.

The Cochituate water was running. No fires were wanted; and yet, it is here in evidence, unimpeached and unimpeachable, that fires were kept up during that week, more intense than were ever kept there before, and in places where no fire was ever kept before.

Gentlemen, when was he there? I have already stated to you, and to the Court, that, upon a critical examination of the testimony of his three daughters, there is a most significant and remarkable corroboration of the testimony of Littlefield. They do not conflict in any particular. He was there on Friday afternoon. What was he doing there? Where did he dine? I have already asked you that question. It is worthy of your consideration. On Saturday morning, you have no trace of him. From Saturday morning at one o'clock, until Saturday in the afternoon at one o'clock—have you any assurance where he was during that interval? Is not the argument just and fair, that he had come over, in one of those flittings of his, from Cambridge to the Medical College? Nobody else had a key to the building but

himself and Dr. Leigh; and there is no pretence that Dr. Leigh was there. That door was left bolted at night, and was found left unbolted in the morning.

In the course of that forenoon, on Saturday, when Littlefield went in to build his fire, and was about to proceed down the laboratory stairs, he received, for the first time in his life, the peremptory order — "Mr. Littlefield, go out the other way." He went out as he came in. On Sunday, he was there. Then he had those interviews of which I have spoken, and upon which I do not care to dwell. In his interview with Mr. James Blake, his story was prepared; and you have been asked, with great significance, "If he were a guilty man, why should he come to communicate that interview; for nobody would have known it, if he had not?" If nobody was to know it, why does he have the notes? How did he know but that they had been exhibited to Dr. Francis Parkman on that very Friday morning? The fact that he communicated his interview is explicable on other grounds also. How could he know but that he would be remembered, on that morning, by the servant? And what a fatal fact, if he kept it to himself, if it should turn out afterwards that he was recognized!

But suppose he had been perfectly sincere, and had wanted simply to communicate with this family the fact of the interview; then I submit to you, considering the relations between him and the Rev. Dr. Parkman, he would not, at least, have slept that night without sending a note to relieve the agony of that family. But he waits till Sunday, and is dissuaded from going in the morning, in order to go to church.

He had an early dinner on Sunday, in order that he might go over and communicate with Rev. Dr. Parkman. But he does not visit him till he had spent some time at the College. He does not get to Dr. Parkman's house till four o'clock in the afternoon; and then he makes a communication, the object of which seems to be, to impress on Dr. Parkman's mind just two things — one, that he had paid money to his brother. He was never to appear. These notes would be traced. He must show that he had paid them. The other, that his brother was in a strange condition, and that he rushed out in a hurry, indicating a disordered mind; and that concluded all that cold, business-like, unsympathizing interview with the family of his own pastor, and the pastor of his children.

Then, on Monday, that striking interview with Mr. Samuel P. Blake, when he braced himself up to answer questions! It is commented upon by the Counsel, that he was too warm in his interview with one, and too cool in his interview with the other. But both are consistent with the theory I have suggested.

I come now to another subject. Mr. Blake said he (Dr. Webster) told him enough to make him believe that Dr. Parkman took that mortgage from him, although we find that very mortgage in Dr. Parkman's house. We find an interview with Fuller and Thompson on Sunday night. Mr. Thompson did not observe what Fuller did, and Fuller did not hear what Thompson did. They are to be taken together. Mr. Fuller witnessed the agitation of Dr. Webster; Mr. Thompson heard, by statement, of his interview with Dr. Parkman.

This is all evidence. And the statements that either two persons

were present when he paid the money, or two persons, one of whom was the janitor, had just left, were both fabrications. On Tuesday, he wanted no fires — his lecture would not bear the heat. Is it true, that, with the knowledge of this fact, the Counsel can turn round and say that the Counsel for the Government have not shown that it would bear it? Dr. Webster could show, by the students, what his lecture was that day; and then the chemists here could tell whether it was a matter to bear heat or not. This is for him, and not for the Government, to show.

Then, Clapp's search! It amounts to nothing, except the leading away from the privy, and opening of another door, through which Dr. Webster led them. Mr. Kingsley saw a fire in the assay furnace on that Tuesday. That fire was burning, and Dr. Webster was there, and the tea-chest was there, also, — the tan and the minerals in it — on that day. Then, Gentlemen, he gives that turkey to Mr. Littlefield! If there was an attempt at conciliation, it was not an attempt of Littlefield's, but of Dr. Webster, so far as it amounted to anything. And is it consistent with the fact, that he stated that he had such a horror of this man? If you believe Mr. Littlefield, on Wednesday, Dr. Webster was at that furnace. He was away from home, by the testimony of his own daughters. Fire was burning. He locked up everything fast — covered up this fire in the furnace, and left it to burn and smoulder away.

Then, his other object, that of keeping up the *alibi*, was to be attended to. He was at home at dinner on Tuesday; but he came into town on the afternoon. For what purpose? So far as it appears, to give Mr. Littlefield this turkey! Nothing else!

On Thursday, Thanksgiving day, he was at home after eleven o'clock. On Friday, in the morning, at eight o'clock, he was at home. At nine o'clock, on that morning, he was at Mr. Waterman's shop, ordering the tin box. It is said, by one of his daughters, that they were in the habit of sending plants to Fayal. If that had been the purpose of this box, never needed before, would it have required the strong handle? If, too, plants were to be sent in it, would it have been soldered up tight? Who ever heard of sending across the water live plants in a box so soldered up as to exclude the moisture and the air?

More decisive than this, his daughter tells you that she does not know as there was any intention of sending plants at that time, and Mr. Waterman tells you he never made such a box for him before. But that interview with Mr. Waterman is very significant. "Dr. Parkman," he says, very energetically, "did go to Cambridge;" and then he tells the story about a man's having seen, in a mesmeric state, a cab, the number of which was obtained, in which Dr. Parkman was carried off, and blood was found in it!

I do not know how it strikes your minds; but that a teacher in Harvard College should be here, in the city of Boston, in the shop of a mechanic, trying to impress upon this man the truth of such a story as that, strikes me as singular. He followed up that day, telling that same story to Mr. Littlefield and his wife. Then, in the course of that day, he buys the fish-hooks, and, in the afternoon, goes over to Mrs. Coleman's, and has that striking interview with her. What was he trying to ascertain from her, or to make her say? Why, that

Dr. Parkman was seen by her on Friday! "Are you sure it was not on Friday?" And even after she had given him reasons, and even after he goes to the door, he repeats the question — "Are you sure it was not on Friday?" — trying to impress her with that idea.

Then, that night, on that week, or some one of the nights on that week, without his family, upon the evidence of Mr. Sanderson, the watchman, he went out in the late omnibus, between eleven and twelve o'clock.

I have thus traced him, and shown that he did all that was competent for him to do; that he went to Mr. Treadwell's, not by invitation, but a casual call; that he played whist, which is all consistent with his subsequent conduct, and with that which he has shown here. It required nerve. He has it, and enough of it; excepting, and only excepting, when fear fell upon him, and the dread of impending exposure made him afraid.

Gentlemen, I have but a word to say in relation to these anonymous letters. The Counsel has called your attention to one single feature, which was spoken of by Mr. Gould as characteristic generally of Dr. Webster's writing. He has called your attention to it in this letter, as being of a different character. That is, the figure 9. Look at that figure 9, and see if it is not evidently disguised.

Then, there are some other circumstances in connection with this. I do not profess to be an expert; but, when I find a respectable man, like Mr. Gould, who has paid fifty years' attention to this matter, and another, Mr. Smith, who has had, perhaps, thirty years' experience, coming upon that stand, and saying to a Jury, that they have made a thorough examination, and that they have no doubt that the handwriting is that of Dr. Webster, I think their testimony is entitled to some respect. If a mechanic should come and tell me, as a lawyer, that such a thing could be, and such a thing could not be, and it was exclusively within the province of his art — if I believed him to be an honest man, I should defer to him. If a ship-master should come upon the stand, and undertake to tell me, as a lawyer, that, under certain states of the wind, and of the ship, such a result would happen, I should believe him, because he has experience, and is competent to instruct me.

And, when a man comes and says, that, having had fifty years' experience in the examination of hand-writing, that he has no doubt, and that is confirmed by the testimony of another witness, who also has no doubt, that it was written by Dr. Webster, then it is entitled to consideration. That letter is written by a man accustomed to composition. It is signed "Civis," the Latin word for "Citizen." It was written by a man who had some knowledge of the Latin tongue. Who would be likely, in a matter so interesting to the public, to have undertaken to communicate with the City Marshal under an anonymous signature? If it were Dr. Webster, and he was innocent, would he not have done it personally, making such suggestions as he considered important? Then, other letters are not testified to so positively, namely, the "Dart" and what I have called the "Sanscrit" letter. But you will find that the latter is written on a fine, delicate note-paper. It was not written with a pen. That there was an instrument found in Dr. Webster's laboratory, which is fitted to make this, is proved; and that instrument is such an instrument as might have made those erasures upon the notes, which were not made

with a pen. But I submit this part of the case to your judgment, without pressing it upon you.

Gentlemen, I do not know but that I have said almost all that is necessary for me to say, with regard to Prof. Webster's conduct, prior to his arrest. I now propose to add a single word, respecting his conduct afterwards. I have spoken of his meeting Mr. Littlefield. He had spoken to Mr. Starkweather of Mr. Littlefield, before he met him face to face — but that conversation with Starkweather is too important not to have your attention called to it for a single moment. Here is a man, certainly, of intellectual culture — of a certain degree of self-discipline, such as you would expect to find in an educated man. He is called upon, at his own house, after his own premises have been searched for the missing body of one whose disappearance has excited the entire community. He is waited upon by three police officers. They say they wish to make a further search of his premises. He makes no objections. He calls their attention to the fact, that Mrs. Bent had seen Dr. Parkman. He knew that story. Did it impress his mind that nothing was discovered? Did he suggest this in the hope that, on going to Mrs. Bent with these police officers, she might modify her statement? They stop at the Leverett-street Jail. Mr. Clapp goes in, and, upon returning, requests them to get out. He, submissively, and without inquiry, follows them into the prison. Who is Dr. Webster? — and who are they? He, a Professor of Harvard College! and they, police officers of the city of Boston! He follows them, and not till they reach the inner office of the jail, does he ask what it means. Mr. Clapp replied, not that Dr. Parkman's body was found, but, "Dr. Webster, you remember I called your attention to the soundings which have been made above and below the bridge. We have been sounding about the Medical College; we have been looking for the body of Dr. Parkman. We shall look for it no more; and you are now in custody, charged with the murder of Dr. Parkman. He articulated half a sentence," continued Mr. Clapp — "I could not understand it; and then he said, 'I wish you would send over to my family.' I told him they would better not learn it till morning. He seemed inclined to speak a word or two, and I told him he had better not say anything about it."

What was his conversation, when he was left alone there with Mr. Starkweather? And remember, that, not even in the cross-examination, was it attempted to be shown that this conversation was not reported exactly as it was taken down. The appeal is then made to you, to consider him as an irresponsible person — that he was in no condition to know what he was about, and that you ought not to regard his declarations any more than you would those of a raving maniac.

He had intelligence and malevolence enough to endeavor, then and there, to make a causeless accusation against an honest, though a humble, man. He did make inquiries, and, from that time, he was master of himself. He says to Mr. Starkweather, "You might tell me something about it." Immediately after Mr. Clapp and Mr. Spurr went out, he asked for water. A pitcher was brought, and he drank several times. "He asked, 'if they had found him.' I told him not to ask any questions, for it was not proper for me to answer them." No man ever had more consideration, from Mr. Parker down to Mr. Starkweather, than Dr. Webster had that night. He was expressly

cautioned. He said, "You might tell me something about it — where did they find him? *Did they find the whole of the body?*" I ask you, if, with the knowledge this prisoner had, that they had been sounding about that Medical College, and should look no more for the body, what prompted that inquiry — "*Did they find the whole of the body?*"

Mr. Foreman, or either one of you, Gentlemen, I ask you to put yourselves in the condition in which Dr. Webster was that night, being an innocent man. A tipstaff has put his hand upon your shoulder, and you are taken into custody; and the body, he says, of a murdered man is no longer to be searched for, because they have been searching enough, and you are arrested as his murderer. Now, what would prompt you to put such a question as that, not knowing that the body was cut up — "Did they find the whole of the body?" There out-spoke the guilty conscience, showing a knowledge that the body of Dr. Parkman was not an entirety, but separated into fragments. "I then asked him, if anybody had access to his private rooms but himself." "Nobody, but the porter, who makes the fires!" Next a pause! Then he says, "That villain! I am a ruined man!" He then put his hand into his pocket, and *took something* — and then he had those violent spasms, and the other symptoms that followed through that night; and, in the presence of Mr. Cummings, the turnkey, while tossing upon his bed, unconsciously comes out from him that confession, "I expected this!"

Now trace him down to the Medical College. He has had no information that the body had been found. Mr. Clapp told him simply that they should search no more. When he had reached the College, and when they were searching the private room, where they can find nothing, then he is calm. But when they got down to the laboratory, and it was discovered that the remains were found in the privy-vault, then came that spasm again. And, if you believe what the witnesses testify to, the sweat streamed out upon him, though he was complaining of cold — that his pantaloons were saturated, and his coat moistened with perspiration!

I ask you, if this man, who has gone calmly through, innocent or guilty, more than any man I ever knew — whether you can believe that that was the mere prostration of an innocent man, or whether it was the guilty conscience that drew the sweat of that mortal agony out of him? When he found that there was nothing discovered but these remains in the vault, upon which were no marks of identity, and which he did not see nearer than nine feet, he says, "Why did they not ask Littlefield?" "They took me down there, and asked no questions." And he comes here with no declarations, of that fearful night, which had been extorted from him by inquiries. All that comes here is the voluntary, unconscious confession of mute nature in the man.

Now, I have but one other fact to comment upon, and I will relieve your patience. On Saturday, he remains in this condition. Mr. Andrews states to you that he went in there in the morning, and then he made that cruel accusation against Littlefield, although he said — not as the Counsel put it to you, but in his own language, — "That is no more Dr. Parkman's body than it is my body; but how in the name of Heaven it came there, I do not know." This is his defence;

and it is expected that this asseveration, which is no more than his plea of not guilty, is to outweigh the proof!

Gentlemen, was he in that condition when he could have made an inquiry, at any time? Can you conceive of any innocent man, going along through twenty-four hours, nearly — for it was followed up during that day — and being perfectly mute, making no inquiry. The only thing was, to ascertain from Starkweather what he could not tell him with propriety. And from that hour in which the remains were found, not a word escaped him, in regard to the matter. He continued there till the Police Court, on Monday. He says, "I will go to prison; I will let my family suffer the torture of suspense; I will let my name be blighted by the prejudgment of the world; I will not even ask them what their evidence is." Then he returns to that prison, and there he writes the letter containing this sentence:

"Tell mamma *not to open* the little bundle I gave her the other day, but to keep it just as she received it."

Gentlemen, you have that letter with you. Here is a man of education — here is a man who has lived all his days under the influences of cultivated, social, and domestic associations — here is a man, a Professor in a Christian University, whose motto is, "Christ and the Church!" He is in the cell of a prison, as he was described by his Counsel, and he sits down under this terrible accusation — an accusation that he has been guilty of a crime at which the universal heart of the world revolts! And, Gentlemen, he is the victim of a conspiracy, which has fabricated that accusation against him. He sits down to write to his daughter, to ask his wife to conceal that, which, when this note was read, and the officers went there, turned out to be the two notes, and that statement of the indebtedness of himself to Dr. Parkman!

Judge Merrick. There is no testimony.

Mr. Clifford. Mr. Clapp says that he went to Mrs. Webster, after he got this letter, and these were produced.

Mr. Sohier. You are mistaken.

Mr. Clifford. Mr. Clapp so states it; I do not think I can be mistaken. We will have it right.

Mr. Clifford (*reads Mr. Clapp's testimony.*) "I had been directed, particularly, to search for a certain package of papers; and asked Mrs. Webster if she had the package mentioned by Dr. Webster. Sanderson brought other papers, and finding them not named in his search-warrant, sent them back to the trunk. I requested her to give them to me — I would give her a receipt; and she did so."

And you will find it underscored, "*not to open* that bundle." He is writing a letter, for the first time, to his daughter; and I ask you whether he indicates in that such a character as his Counsel would claim for him? What is that letter? Not a word in it, that he himself was assured of his innocence, and telling her to keep up her heart, for it would all be made right! Not a syllable which could strengthen and assure them — not a word of reliance upon God, in that dark hour — but a paltry enumeration of his physical wants, and so on through — a little pepper! and a little tea! Gentlemen, I forbear. I submit to you, that is not a letter from an innocent father, the victim of a foul conspiracy, immediately after his imprisonment, to a distressed and anxious child. I will not comment upon it. You will consider

with what justice the claim can be made, and how it *indicates* character.

Gentlemen, we have been asked here to consider that, if this act was done by Dr. Webster, it must have been in the heat of blood, provoked by contest, and therefore to be considered as manslaughter. When the Counsel said, Would to God that he had rushed out, and said, "I have killed my brother man!" — remember what he did do. Remember his plans, which repel the presumption that it could have been done in the heat of blood. I have not thought it proper to dwell upon the circumstances which imply premeditation, nor do I do so now. It is entirely immaterial whether he premeditated this one day or one minute. If you are satisfied that he did remove Dr. Parkman from this mortal life, however sudden, if it was done with an instrument likely to cause death, and unprovoked by a blow, then it is just as much murder as if he had premeditated it for months. We find in that the implied malice of the law. I leave it to you to say, whether you do not find the express malice of the law. The treatment of these remains proves incontestably that there was the malice afterwards, if not before; as described by the great reader of human nature,

> "It doth seem too bloody,
> First, to cut off the head, then hack the limbs;
> Like wrath in death, and malice afterwards."

I do not know as you could find in the books a better illustration of the implied malice of the law than this cruel conduct indicates.

Have you any doubt, from all this evidence, that Dr. Webster had an agency in the death of Dr. Parkman? Can you doubt it for a moment? It is not a possible doubt that will shield you from your responsibilities — it must be a reasonable doubt. And [turning to the Bench] I invoke your Honor's instruction to this Jury, as to what a reasonable doubt is. It is a doubt for which a man can give a good reason, and not a mere possible doubt that somebody else may have done it. And it is for you to say, upon all this evidence, whether you do entertain that reasonable doubt which is recognized by the law, and which, extended beyond its fair meaning, would leave society at the mercy of the passionate, the lawless, and the depraved.

Gentlemen, you have had appeals to you, in behalf of the prisoner's family, both in the opening of the Counsel, and in the closing argument. God forbid that we should forget them, though he did! We will remember them better than he remembered the family of Littlefield, whom he could gratuitously charge with being the author of a homicide, or a conspiracy, which was worse; and more than he thought of the family of Dr. Parkman, when he was endeavoring to impress upon Mr. Pettee, by a gross and audacious falsehood, that Dr. Parkman had been insane, — taking away from them, in their bereavement, the consolation of thinking of him as he was, and as the proof has shown him to have been, on that fatal morning, in good health of body, his mind in its undimmed intelligence, and in unusually cheerful spirits.

There is another family we are not to forget. That wife, whose partner and protector has been suddenly removed from her companionship; — that invalid daughter, on whom his last thoughts were most probably centred, as was indicated by the purchase of that delicacy for her on Friday, — that daughter, to whom his kind and pa-

ternal presence made up the daily sunshine of her weary hours but to whom, in his assiduous kindness, he will never come again; — and that only son, who was compelled to hear, in a foreign land, the heart-crushing intelligence that he should see his father's face no more; and who comes home to enter upon the large responsibilities which his father's death devolves upon him, without parental guidance and counsel!

The family of the prisoner are not to be forgotten. Our hearts bleed for them now; but it is one of the great providential penalties of sin, that the innocent must suffer with and for the guilty. In the official experience which has been common to my learned friend and myself, we have often seen the mother, the sister, heart-broken, appealing for mercy for some sinning, erring son or brother. Gentlemen, it is so everywhere; and no man can transgress the laws of God, without involving others in the suffering that must follow. But is that a reason why we should fail to do our duty, compassionately, it is true, but resolutely and firmly, like men?

It was the remark, Gentlemen, of a great English statesman, that "the great object of all good government was to obtain a good Jury." If in any government this is true, it is especially so in ours, which is "a government of laws, and not of men." The constitution of this Commonwealth, as I have already intimated to you, as its first and highest object, has the protection of life, — the security of human life against the violence of passionate and the machinations of wicked men. And, Gentlemen, shall it fail of this, its high purpose?

If you undertake to exercise, here, the prerogative of mercy, — a prerogative which is assigned by that constitution to another tribunal, — how can you tell, Gentlemen, what mercy is? I very much doubt, indeed, whether these murders — which have so thickened upon us of late, the investigations of which have crowded, within the last few months, our judicial annals — I very much doubt whether here, in Massachusetts, we should have had to deplore them all, had it not been for the weakness of Jurors, who have permitted those proved to be guilty, through a false tenderness of conscience, to go unpunished. Remember that great maxim, which has been long honored in other lands, — "*Judex damnatur cum nocens absolvitur*" — the Judge is condemned when the guilty is acquitted. The Juror who permits the guilty to escape, convicts himself. If ever we have had a case which requires the Jury to stand up firmly to the discharge of their great duty as citizens, it is here and now. The mercy which is to be exercised by a Jury may be more effectually exercised by a conviction, oftentimes, than by an acquittal. How can you tell, — who can tell — how many great crimes might have been spared to humanity, if all our verdicts heretofore had impressed upon the public mind and the public heart the certain conviction, that judicial punishment follows, like its shadow, detected crime!

I do feel, Gentlemen, that upon twelve men here is resting a higher responsibility than ever rested on twelve men in Massachusetts before. Remember that we have had here, through these long and weary days, those whose labors will carry this trial, and all this mass of proof, unanswered by any explanations on the part of the defendant, into all lands, to be read in all languages, and to be read, Gentlemen, as a memorial of you among all men, — a testimonial of the

degree of inflexibility and firmness which you shall have exhibited, in upholding, paramount and supreme, the law under which human life has claimed and enjoyed protection, in this Commonwealth of Massachusetts, since its foundation by the Pilgrims!

[At this stage of the proceedings, Chief Justice Shaw addressed the prisoner as follows:—]

Before committing this cause to the Jury, if you have anything to say, you may address the Jury, making any statement that you think fit, and which you think necessary for your defence. I ought to inform you, also, that this is a privilege granted to you, which you may use or not, at your own discretion.

ADDRESS OF PROF. JOHN WHITE WEBSTER TO THE JURY.

I feel indebted to your Honor for this kind permission. I cannot go into an explanation of the net-work of circumstances which has been woven around me, and which, in nine cases out of ten, would require many hours to unravel, though, to probably nine tenths of them, I could give a satisfactory explanation.

On all the points, testimony had been placed in the hands of the Counsel; and my innocence would have been firmly established, if it had been produced. But, acting entirely under their guidance, I have sealed my lips, and, from the first moment, I have trusted entirely to them. They have not seen fit to bring forward the evidence on a great variety of subjects, which, therefore, have been brought to bear, with consummate ingenuity, against me. I trust they will not be considered against me by the Jury.

I will allude to one or two of the subjects which have been unexplained. I doubt whether the letter written by me, from the jail, to my daughter, and which has been read, was the first, because there were two or three long letters which I wrote about that time. The inference, from the sentence in that letter, which led to the examination of my private papers by the police, was different, very different, from what was intended by me. The explanation of that sentence is as follows. I had read, in one of the daily prints, which were distributed in the prison, some of the various fabrications which were made respecting me; and one of them which I saw was, that I had purchased a quantity of oxalic acid. It immediately occurred to me that the very parcel referred to was saved, and could be produced. For several days, Mrs. Webster had reminded me of a want of citric acid, and laughed at me when I returned home for forgetting to obtain it.

On the very day of my arrest, I stopped at Mr. Thayer's Apothecary establishment, in Bowdoin-square, conversed about half an hour, on various topics, and purchased the citric acid. I carried it home, and placed it in my wife's hands, saying, "There is your acid." I knew that the possession of the acid would show that it was not oxalic; and hence the request about the bundle — not to open, but to keep it — had no connection with the papers.

Mr. Charles Cunningham was at my house when the officers came there to examine. They broke open a trunk, examined it, and left

Afterwards, Mr. Cunningham opened that trunk, and, in looking over the papers, found the notes laying there; and thinking they had been overlooked, and that the officers might come again, laid them in sight, and made a memorandum of it, in the presence of a witness.

Then, with regard to Mr. Thompson! I conversed with him on this very point of aberration of mind, and also asked him if Dr. Parkman had in his hand, when he saw him, this very bunch of lettuce; and I think he added, that he had a bundle.

In regard to the nitrate of copper, — either the lecture preceding my arrest, or the one preceding that, I had occasion to show the experiments of changes of color in gases. I prepared a large quantity of the nitric oxyde gas. In a two gallon jar, were placed nitric acid and bits of copper. Nitric oxyde gas is thereby produced. After standing a few hours, it becomes colorless; and, during the lecture, by the admission of oxygen gas, it becomes of a bright orange color, the gas being changed, by this experiment, into nitrous acid. Blood, by the admission of oxygen gas, is changed from dark venous blood to florid red. And so I might go on, and show how these circumstances which have been testified to have occurred.

My very calmness has been brought against me. My trust has been in my God! I have been advised by my Counsel to remain as calm as possible.

That money paid Dr. Parkman I had positively laid by, from day to day, in this little trunk, and, unfortunately, no one can be produced who saw me pay it. Several years ago, I had been in the habit of having students in my laboratory, but, for a number of years, I have prepared everything with my own hands. The reasons why I excluded any one from my laboratory are obvious. I will not allude to them.

This will serve to give the Jury an idea of the perversions, as I must call them, which have been brought forward in this case.

Every day, from the Friday of the disappearance, to the following Friday, I never was absent from my home after nine o'clock at night; and, as to being seen by Mr. Sanderson, it is altogether a mistake. I was at home every night. In regard to where I dined on Friday, I would say, that about three o'clock I went toward the omnibus office, to go out, but stopped in at Brigham's, and took a mutton chop. From there I went to Kidder's, and from thence to the omnibus office.

But, accident put it into my power to show that I had been at one place on Wednesday evening. Having occasion to make a little present, I went to Munroe's book-store, and bought Humboldt's late work. I took that book with me, stopped again at Brigham's, and thence went to Mr. Cunningham's. On my arrival, I found that I had forgotten my book. They went to Brigham's, and found the book; but, unfortunately, on the other occasion, I cannot prove the fact; and so it has been with the greater number of other circumstances. I will not detain the Court by detailing them.

If the Court will allow me to say one word more, — I have felt more distressed by the production of these various anonymous letters, I had almost said, than by anything else. And I call my God to witness, while I positively declare, I never wrote them! Since my trial, my Counsel has received, on this day, a letter from this very "Civis"; and if he is present, and has a spark of humanity, I call upon him to come forward, and acknowledge it!

EVENING.

CHARGE OF CHIEF JUSTICE SHAW.

Gentlemen of the Jury:

It is with the deepest sense of the responsibilities which devolve upon me, that I rise to address you upon the most important and interesting subject that can be called to the attention of a Jury.

But this case has continued so long, it has been brought now to such a crisis — the whole of the evidence, and the whole argument, being before you — that we feel unwilling, notwithstanding the lateness of the hour, painful, responsible, laborious, as it is, not to go on with the cause, that you may proceed to consider of your verdict.

For this purpose, not because it is not important, but on account of the peculiar circumstances, I shall be more brief than I should otherwise be. But it is, after all, mainly a question of evidence. The principles of law, for which the Court are responsible, are few, plain, and simple. I shall be able to state them briefly; and it will be my duty to consider the rules of law, rather than make an examination of the evidence itself.

Gentlemen, some appeals have been made to you upon your duties. I think, after what is apparent of this character, after the long work of a fortnight, the mode in which the cause has been conducted, the degree of solemnity which has affected the minds of all, must have already affected you, more than any words of mine can do, with the vast importance to all citizens of their great rights, and, above all, the right to life.

I may make a few and simple observations upon what I consider the real, the appropriate duties of Jurors, and of Courts, in a case of this description. This is a case in which a party is charged with a high criminal offence — one of the highest known to the laws. We profess to live in a government of laws. And now, by a distribution of those powers which go to make up the powers of a civil community, the *constitution has intrusted to another department of the government*, the power of making the laws. For that we are not responsible. And whatever may be the view of all of us, or any of us, upon the subject of the particular punishment which that law has appropriated to a particular offence, it is not our duty to consider it. But it is our duty to carry them into execution, — to administer them truly and fairly. And every government must not only have the Legislature to make the laws, but the Judicature to administer them.

The appropriate province of jurisprudence is to take the law as we find it. And when any person is brought before us in the manner required by the law, we are to consider what the law and evidence are, and whether or not he has violated it in any such way as to be amenable to public justice. If so, we are to declare it. Here is a division of duties. The Jury have their duty; the Court have theirs; and each is responsible for its own. It is the province of the Court to lay down and state what the laws are; to regulate the course of proceeding in a particular case; to direct what shall or shall not be considered competent evidence, and, generally, to conduct the trial.

But it is for the Jurors to take this mass of evidence into consider-

ation, — to apply their best judgment and their best efforts to ascertain the truth, and then to declare that truth, in what is called the verdict, that is, in the declaration of truth. This is the province of the Jury. And while each continues and keeps within its own province, the law will be administered; all will be done which should be done, for the punishment of the guilty, and the relief of the innocent.

With these preliminary considerations, I will consider this case.

This, Gentlemen, is an indictment charging the defendant, the prisoner at the bar, with the crime of murder. Homicide, Gentlemen, of which murder is one of the highest species, is of various degrees, according to circumstances. There may be homicide that is the death of another in self-defence; it may be in the execution of criminals, and in other ways. Homicide is a generic term, embracing every species, by which the life of man is taken. It may be lawful or unlawful. It is lawful, when it is alone justifiable, in war, or by an officer, under a proper warrant. And it is also justifiable in self-defence.

It is not necessary for me to go into those distinctions. But I will state them briefly, from the books, and then submit to your consideration the crime with which the defendant is specially charged.

The indictment, in the present case, charges that the present defendant, "Professor John W. Webster, of the Medical College, and Professor in the College at Cambridge, did, on the 23d day of November last, violently make an assault upon Dr. George Parkman, and then and there did deprive him of his life by violent means;" and so the Grand Jury declared, that in these forms, or one of them, this crime was committed.

The law provides what the punishment shall be; but, in determining what murder is, we all resort to that great magazine, the common law. This provides what murder is; but the statute provides only that the person who shall be guilty of wilful murder shall be punished with death. But the common law of England and of Massachusetts is as much binding as that of our own legislature. We adopted it when our ancestors settled here. It has been successively adopted since that time, and was introduced into the constitution of our own state; and it has the same force as if it had been specially enacted by the legislature.

Referring, then, to this, I may as well state it now, from a former memorandum of my own. I ought to have said, that, in rising to address you, it would have been, certainly, more satisfactory to have taken more time. But this would have prevented you from entering on your duty immediately.

But, Gentlemen, I will state, therefore, from a former memorandum, revised for this purpose, that an unlawful homicide is distinguished into murder and manslaughter.

Murder, in the sense now understood, is the violently killing of any person, under the peace of the Commonwealth, with malice prepense or aforethought, either express or implied by law.

Malice is used in a technical sense, not only including hatred and revenge, but every other unjustifiable motive. If a man should kill another, with a motive of gain, it is unlawful. It is not confined to one or more individual persons; but it is a thing done, "*malo animo*," with a malicious mind, when the fact has been attended

with such circumstances as carry in them the plain indications of a heart regardless of social duty, and fatally bent upon mischief. And, therefore, malice is implied from any deliberate and cruel act against another, however sudden. Manslaughter is the unlawful killing of another, without malice; and may be either voluntary, as that done with a real design and purpose to kill, but through the violence of sudden passion, occasioned by some provocation, which. in tenderness to human nature, the law considers sufficient to palliate it and rebut the presumption of malice; or from accident, when not accompanied with any intention to take life. Hence, it will be seen that the characteristic distinction between murder and manslaughter is malice express or implied. It therefore becomes necessary to ascertain, with some precision, what constitutes the legal nature of malice. and what evidence is requisite to establish the proof of it.

The authorities, therefore, proceed to state that the implication of malice arises in every instance of intentional homicide, the fact of killing being first proved. Therefore, all the circumstances of excuse or palliation are to be satisfactorily proved, unless they result from the evidence produced against him, showing that if any killing is proved, it must have been with provocation by blows or other justification. And if there is no justification or excuse in the attendant circumstances, the case will be such as to warrant the conviction of the party.

This rule is founded upon the plain and obvious principle, that a person must be presumed to intend to do that which he in fact does; and that he must intend the natural, probable, and usual consequences of his own acts. Therefore, where he assails another with a dangerous weapon, with a weapon likely to do bodily harm, the presumption is that he intended death, or great bodily harm; and as there can appear no proper motive for such a cruel act, in the absence of proof, the consequence is inevitable, that it was done unlawfully. On the contrary, if death is inflicted so suddenly after provocation, and if there be any such cause of provocation, as the law allows, as to make it manslaughter, the act is deemed to be without malice aforethought.

It is a settled rule, that no provocation with words only will justify a mortal blow. Then if, upon provoking language, the party intentionally revenges himself with a mortal blow, it is unquestionably murder. It is a settled rule, that no provocation by words only, however opprobrious, will justify a mortal blow, intended to inflict death. I shall have occasion to explain, that where a pistol is discharged at the body of another; where a heavy bludgeon, or an axe, is used upon the body of another; where a knife is used, — these are dangerous weapons, and are indicative of an intention to kill. The law will reduce it to manslaughter, if there be provocation sufficient for this. But words are not sufficient for this. It must be at least an assault. The word aforethought is used not as simply implying deliberation or the lapse of time, but as rather intended to indicate purpose or design, and in contradistinction from accident or mischance.

I may verify these positions, perhaps, by being permitted to read one or two passages from a work of good authority — one from which passages have already been read to you, by the opening Counsel for the defence, — from the Pleas of the Crown, by East, a gentleman afterwards one of the Judges in India.

East's Crown Law, chapter 5, section 2:—"Murder, in the sense now understood, is the voluntary killing a person under the King's peace,"—and, in my definition, I use, in place of that term, the words, *under the peace of the Commonwealth*,—"of malice prepense or aforethought, either express or implied by law; the sense of which word malice is not confined to a particular ill-will to the deceased, but it is intended to denote, as Mr. Justice Foster expresses it, an action flowing from a wicked and corrupt motive, a thing done *malo animo*, where the fact has been attended with such circumstances as carry in them the plain indications of a heart regardless of social duty, and fatally bent upon mischief. And, therefore, malice is implied, from any deliberate, cruel act against another, however sudden."

Section 12:—"The implication of malice arises in every instance of homicide amounting in point of law to murder; and in every charge of murder, the fact of killing being first proved, all the circumstances of accident, necessity, or infirmity, are to be satisfactorily proved by the prisoner, unless they arise out of the evidence produced against him. But it is intended here only to speak of the more deliberate and depraved species of that offence, where a mind has brooded upon its prey, and marked out the object of destruction in cool blood; and not where there is heat of blood arising from provocation, or from mutual combat." Where there is a use of a dangerous weapon, where it is intended to destroy life, or to do some great bodily harm,—and I use this qualification of some great bodily harm, because a person may use a dangerous weapon, and say that he did not intend to kill,—if he intended to do some great bodily harm, and death ensue, it is not enough for him to say, "I meant merely to wound him, but the blow unluckily killed him:" it is no excuse: he intends to do great bodily harm.

Then, what is that will reduce murder to manslaughter? It is said, in the passage that has been read, that it is out of regard for the frailty of human passion. Every man, called upon suddenly to defend himself, is inspired with a principle which puts him upon resistance; and if, during that period, he attacks the party thus injuring him, by blows, and death ensues, it is regarded as done through heat of passion, and not through malice, or that cold-blooded feeling of revenge, which more properly constitutes the emotion, the feeling, the passion, of malice.

And so, again, in an instance which may be presented of heat of blood in mutual combat. Two persons come together, not intending to quarrel; because, if they do intend to fight a duel, then it is murder. But two persons come together. Angry words arise. Then they come to blows. It is immaterial who strikes first, supposing that there is nothing unfair on either side, but it is a fair combat. One seizes an instrument, and strikes a deadly blow. That is regarded as heat of blood; and, though not excusable, because a man is bound to control his passions, yet it is not that higher offence, which is called murder.

We have gone into these distinctions, though there is not much necessity for it, because, where death ensues, and there is no evidence of provocation, or of heat of blood, or mutual combat, the fact of killing implies murder, and the Jury would be warranted in finding a verdict of murder. There seems to have been little evidence, in

the present case, that the parties had a contest. There is some evidence of angry feelings. But angry words are not sufficient. And, unless these angry feelings resulted in angry words, and words were followed by blows, then there is no evidence of mutual combat or provocation, on the one side or the other. With these distinctions, and without going more minutely into the law, we will proceed to the further consideration of this case.

The party is charged with having committed the crime of murder upon the deceased. In order to establish this fact, two things are to be proved. In the first place, that death has been inflicted upon the party alleged to be deceased; of course, where he is dead, that this has been inflicted by violence; that it has been inflicted under such circumstances as to exclude, beyond reasonable doubt, any supposition of its being done either from accident or suicide.

If a dead body is found, and seems to have been destroyed by violence, three questions should be asked. Did he destroy his own life? Was it caused by accident? or, was it from violence inflicted upon him by others?

In most cases, there are facts and circumstances which surround the case, which answer the questions at once. If you see the effect, and the cause is apparent, there is no more deliberation. You sometimes find that a Coroner is called. Sometimes it is unnecessary to hold an inquest, although there may be some indications of a sudden death. What is the reason of a Coroner's inquest? A man has suddenly died, and it is proper that there are investigations into the cause of death. You perceive, by the whole course of this trial, by the tenderness of the law for the party deceased, and all connected with him, — by the tenderness, also, manifested towards the prisoner — how carefully and how scrutinizingly the law regards the life of every member of society.

It is not necessary for me to say here — the spirit pervades the whole body of our law — that, before the law, all are equal; and whatever may be the circumstances of the individual, it makes no difference. Life has been destroyed by violence. Therefore, the law institutes proceedings. And whether, as in one of the most recent cases which occurred, it be a colored child in a country alms-house, or whether it be one of the most eminent individuals in the community for science and wealth, it makes no difference. The same apparatus is provided — the same security provided for every individual. Then, the purpose of the inquest is, when there is a sudden death, that the public shall be informed — and the community have a right to know — how it happened. Therefore, an officer is appointed, whose duty it is to go to the spot, take all the evidence arising from the state of things, obtain a Jury, and ascertain what are the facts. If, as in the present case, they appear to charge any individual, then that is the basis of further proceedings. If they are satisfied that it is by an act of God, a dispensation of Providence, then they must report that. The result is given to the proper authority. Thus, every means is taken to vindicate the law. If it be suicide, in England, the party forfeits his goods; in our Commonwealth, there is nothing of the kind. And, therefore, if it be suicide or accident, no further action is necessary. But if some person is charged with murder or manslaughter, affecting

the life of the individual, then it is the duty of the officers to proceed further.

This, Gentlemen, is a case in which a person suddenly disappears; in which evidence has been laid before you, to show that he was deprived of life at or about a particular time, under such circumstances as to lead to a strong belief that some person or other had done the act which led to this result.

Now, this is to be proved by circumstantial evidence; that is, nobody saw the act done. And, therefore, it becomes important to state what circumstantial evidence is, and to give you some idea of the mode in which an investigation is to be pursued by the aid of circumstantial evidence.

The distinction between direct and circumstantial evidence is this: Direct or positive evidence arises, where a witness can be called to prove the precise fact which is the subject of the issue in the trial; that is, did one man cause the death of another? That is the fact to be proved. Well, no witness saw it: but can it not be proved? Circumstantial evidence may be of such a nature as to warrant a conclusive belief that somebody did it; and it would be injurious to the best interests of society, to have it so ordered that circumstantial proof cannot avail. If it were necessary always to have positive evidence, how many of the acts committed in the community, which destroy its peace, which subvert its security, would go entirely unpunished? No, Gentlemen; it is not so. There may be evidence quite as strong, indeed, sometimes considered stronger, from circumstantial evidence, as from positive. The attempt to compare one of these means of proof with the other is not based upon sound elements of comparison, because there is no common medium by which they can be compared. Each has its own advantages and disadvantages, and it is necessary to understand them both.

The necessity, therefore, of resorting to circumstantial evidence, is absolute and is obvious. Crimes are secret. Most crimes seek the security of secrecy, and of darkness. It is, therefore, necessary to use another mode of evidence than that which is direct, provided there is another mode: and, thanks to a beneficent Providence, there is furnished a means of proof, in another way, which is quite as strong, and quite as satisfactory, as that arising from the direct testimony of a witness.

But I have stated that each has its advantages and its disadvantages. Now, the advantage of positive testimony is, that you have a man, who, if he is to be believed, saw the act done; and, the only question is, whether he is to be believed. You have the satisfactory evidence of that witness; and, from the circumstances and peculiarities in which he is placed, he may be entitled to belief. The advantage is, that you have a man who testifies to the fact itself.

But, in a case of circumstantial evidence, no person having witnessed the fact, you arrive at it by a series of other facts, which, by long experience, we have so associated with the fact in question, that they lead to a conclusion as direct, as positive, as satisfactory, as if it was derived from positive proof itself. Circumstantial evidence is founded on experience, and obvious facts and coincidences, establishing a connection between the known and proved facts, and the facts sought to be proved.

It must be a fair and natural inference, not a forced or an artificial one. There are some instances where the law has declared that a fact shall be considered in evidence of such a conclusion; but it has not commonly been so; and perhaps the better rule is, that it should not be so. It has sometimes been held, that a woman who is the parent of a bastard child, and who gives no notice of the birth of her child, being found with a dead child, it is to be presumed that she murdered it; but that is an artificial and not a natural presumption. But, in circumstantial evidence, the inference to be drawn from the facts is a probable one, and it should be a necessary one: the presence of one is proof of the existence of the other.

For this purpose, therefore, each fact which is necessary to the conclusion must be distinctly proved. It is not, therefore, that you may offer partial proof of a variety of facts, and then ask the Jury to draw an inference from them. Each fact must be proved, as I have said; that is, each fact necessary to the conclusion.

It does sometimes happen, as it does in the present case, that facts are offered in evidence, not because they are necessary to the conclusion, but to show that they are consistent with it, and not repugnant to it.

If the proof of one of these facts fails, it does not destroy the chain of facts; it fails only to give them that particular corroboration. I will only illustrate it by a fact in the present case, which I shall consider more particularly by and bye.

Suppose, for instance, there is proof here, which goes to show that the teeth found in the furnace were the identical teeth belonging to Dr. Parkman, as examined a fortnight before, and actually seen by one person the day before his disappearance. This has a tendency to prove that he was the person. The first great fact to be proved being what is called the *corpus delicti*, the body of the crime; — ordinarily, it is to prove that the crime has been committed.

Now, suppose, at the same time, there is other evidence in the case, of a less conclusive nature, — for instance, the shape, size, height of these various parts, when put together, which would naturally conform to the body sought. Now, this latter view would fall short of being a conclusive circumstance, because the same height, and the same other indications, might not be so indicative of the individual. They go to corroborate the first evidence thus far, that they are consistent with it; and a great part of the evidence is resorted to, not because each of these particular facts is necessary to establish the main conclusion, but because they go to show that the circumstances are not such as to be repugnant to or inconsistent with it. It must depend upon a basis of facts, which must be as strictly proved by testimony as any other facts must be; the coincidences may be of a physical character, or of a moral nature. The ordinary views and feelings with which parties act are facts, and they are of such uniform operation, that a conclusion may be drawn from them, that, if a person acts in a particular way, he does it from a particular motive: when they are of a physical and mechanical nature, they are very strong — sometimes they may be so strong that there can be no question on the subject. Take an instance where it is natural or physical. Certain circumstances may exist, which are so conclusive as to leave no doubt.

One of the recent cases that occurred in this Court was a murder;

by stabbing in the heart with a dirk-knife. What were the coincidences in that case? There was evidence tending to show that the party charged had possession of the knife during the day. On the next morning, the handle of the knife was found, having been thrown into an open cellar. Some of the witnesses testified that that was the handle of the knife. Afterwards, at a later hour of the day, the blade of that knife was found broken in the heart of the deceased. Now, when the pieces came to be fitted together, no person could have any doubt that that blade was the blade belonging to that handle. No two knives could have been broken in precisely the same way as to produce edges that would so precisely match.

An instance is mentioned in the life of Lord Eldon, that he was in one of the Courts, trying a criminal charged with murdering another with a pistol. There was a great deal of evidence tending to show that he was near the place about the time the crime was committed, and other evidence going to create suspicion that he was the person who fired the pistol; but still, the circumstances failed to be conclusive of fastening it precisely on the individual, which was the great object of all this investigation. The surgeon stated, in his examination, in the presence of the Judge, that the pistol must have been very near the body. On being asked why, he replied, "Because the body was blackened, and the wad found in it." Said the Judge, "Did you keep that wad?" "I did," was the response; and the Judge requested him to examine it. It was found that the wad was made from a part of a song; and the other part was found in the defendant's pocket. The two parts corresponded.

I only put these as cases showing what are, and what are not, circumstances from which conclusions may be drawn as satisfactorily as from positive testimony. But these are from physical causes.

There is another class of circumstances, which are to be considered as moral, arising out of the conduct of men in certain situations; because, from long experience, it is known that men act from motives; and that men, in certain circumstances, are likely to act in a particular way. Indeed, this is the only mode in which a great variety of crimes can be proved, because there are many crimes which can be proved only from the intent. Now, the intent is a secret of the heart, which can be known only from his declarations: and those he may express to none, so that they may remain known only to Him who is the reader of all hearts, except by external acts.

But it is reasoned from the fact that a man, doing a certain thing, acts in a particular way; and, as I have already stated, in another part of the case, a man is always presumed to intend the natural and usual consequences of his own acts.

The natural conduct of men is such, that fair inferences can be drawn from it. It is necessary, to the proper administration of justice, that such evidence shall be admitted, because it is, in its nature, satisfactory; and, if proved, it is equally conclusive.

There are various other views taken: where, for instance, probable proof is brought of a state of facts, the absence of evidence tending to a contrary conclusion is then to be weighed, to be considered; and I shall have occasion to consider that, by and bye, in another part of the present case. So, if a party who is called upon to meet a charge, and against whom stringent proof is produced, can offer satisfactory

evidence to account for the circumstances in which he is placed, in another way, and does not do it, the presumption is, that the proof, instead of rebutting the charge, would have the contrary effect; and, therefore, he suppresses the evidence.

There is another consideration, and that is this: that inferences coming from independent sources, different from each other, and tending to the same conclusion, not only support each other, but support each other with an increased weight of evidence.

To illustrate. Suppose, for instance, in the case just mentioned, that the paper containing the song was produced. It is barely possible that he might have picked up the piece. It is not conclusive that he wadded the gun himself, from the fact of the piece of paper being found in his possession. But suppose, from another, and an entirely independent witness, it was proved that that individual purchased that paper, that particular song, at a shop, the day before; then we have concurrent circumstances, coming from different sources, independent of each other, which bear upon the same conclusion, and therefore have a very strong tendency to establish the result.

Under this head — that is, under the head that a party who can produce proof, and does not do it, thereby, to some extent, corroborates the evidence produced against him — may be referred various other considerations, where it is shown that the party has attempted to suppress proof, has endeavored to prevent things from being known which might make against him; such efforts, when proved, exert an influence against him.

It sometimes happens that a man may be placed in such a situation that he attempts to resort to deception, for the purpose of concealing proofs, when he is an innocent man, instead of having the fact produced. That was the point in the case produced yesterday, of a man who was convicted of the murder of his niece, because she suddenly disappeared under circumstances that gave rise to the suspicion that she was dead; then he attempted to impose on the Court by presenting another person as his niece. The deception was discovered, and operated against him.

In that light, in connection with these various considerations, certain rules can be applied to circumstantial evidence. The first is, that the circumstance on which the conclusion depends must be fully established by proof. They are facts. They are not less to be proved by competent evidence than if they were the direct proof. Under this rule, great care is to be taken, by guarding against pretended circumstances, which might seem to raise suspicion against the party. These are found, detected; and in general it may be considered as one of the wisest provisions of Providence, that where certain things have happened in reality, there they must, of necessity, correspond; because what has happened once may happen again; and therefore, if the facts and circumstances all correspond, there is then a strong belief in their truth. But, if there be one circumstance repugnant, not consistent with them, then they cannot agree; because two things impossible cannot agree. The familiar illustration is: where persons have been slain, and placed in certain positions to make it appear that they had committed suicide. In one case of this kind, there was the print of a bloody hand, a bloody left hand, on her own left

hand. It was therefore impossible that the theory of suicide could be maintained.

So in another case, where a man was found dead, shot by a pistol-ball, with the pistol in his hand. Of course, this indicated suicide. But, upon an examination of the bullet, it was found to be too large for the pistol; and hence you will see at once that suicide was impossible.

The rule, therefore, is, that the circumstance upon which the conclusion depends must be proved. I have already attempted to distinguish that upon which the conclusion depends, and that which is not essential to the conclusion, but only corroboratory of it. If they are not of that character upon which the conclusion depends, then the failure of any one does not make the case fail, but only fails in the corroboration.

The next rule to which I ask your attention is, that all the facts must be consistent. What has happened may happen again. What is impossible could not have happened. And, therefore, the facts must be consistent with each other. Considering them to be the facts upon which the conclusion depends, if any one fact is wholly inconsistent with the hypothesis of guilt, it, of course, breaks that chain of circumstantial evidence, and puts an end to the case. Of this character, Gentlemen, is an *alibi*. And what is an *alibi?* A man is charged with crime. He says, I was elsewhere — *alibi*, the Latin word for *elsewhere*. Well, if that is true, that cannot be consistent with the fact of his being there at that time. At precisely eight o'clock, on a given evening, he is proved to be in one place; therefore, he cannot be in another place at precisely the same hour. That has been the source of a vast deal of contrariety, because an *alibi* is easily suggested. With a little contrivance, and a little arrangement of proof, a person may seem to have been in one place when he was in another. If the *alibi* is proved, then it is a certain conclusion, because a person cannot be in two places at the same time. Therefore, showing him to be in one, shows him not to be in the other. But, wherever such proof is attempted, there must be the most rigid and strict inquiry whether the fact is proved to the satisfaction of the Jury; and false testimony, in the attempting to prove that a man was in another place from his real one, is open to all the various suggestions of contrivance, such as the appearance of sudden riding from one place to the other, and various other modes of that description.

Another fact, which appears in one of these cases. A man was accused of stealing timber. The evidence was gone through with, and seemed to make a very strong case against him. But, on the whole, it was proved, that, if he did it, he did it alone. Then a witness came forward and stated that one man could not lift the timber; it would take five. That was sufficient to close the case.

But where the circumstances are proved, where they lead to a certain result, it may not be the same species of evidence; but it is legal evidence, competent evidence, and evidence which is necessary, in many cases, in order that the guilty may not escape. But they must be of a conclusive tendency. Yet, how is that conclusive tendency to be shown? Whether the party had, or had not, the motive to do the act, may be shown; that there was an advantage to be

gained by it; plunder to be obtained. The circumstances which the party fails to prove, when he might prove them; the attempt to create and impose false evidence; the attempt to withdraw attention from himself to a third person; to suppress actual facts, and various other modes of this description, — these all tend to show, that circumstances which might have affected that party, as well as any other party, were such as to implicate him, because of something wrong. Having a motive, and nobody else having such a motive, nor there being any other cause of homicide shown — such as making threats, manifesting a disposition to do the act, and various other things — come under the head of what I have stated to be moral coincidences, and facts which coëxist with each other. The facts should be, to a moral certainty, exclusive of any other reasonable hypothesis, besides the one proposed to be proved. This is merely an expansion of the last suggestion which I made. They must be such not only as are consistent with the guilt of the party, but must exclude and overthrow every other reasonable hypothesis. They must have a tendency to show that no other individual could, under any reasonable presumption, have done the act which is alleged to be done by the party. They must prove the *corpus delicti*, or the offence committed — the fact that the crime has been committed. The evidence must prove, not only, in a case of homicide or death by violence, the hypothesis presented, but, to a reasonable extent, it must exclude a reasonable hypothesis by suicide, or by the act of another party. This is to be proved beyond reasonable doubt.

Now, then, Gentlemen, what is reasonable doubt? It is not possible doubt only, because everything is doubtful. It is that doubt which, after the entire consideration of all the evidence has been taken, leaves the Jury uncertain. It is not a mere probability, arising from the doctrine of chances, that it is more likely to be so than otherwise; but a reasonable, moral certainty; that is, a certainty that weighs upon the mind, weighs upon the understanding, satisfies the reason and judgment, that, without leaving any other hypothesis, the facts are such as to implicate the defendant, and do not implicate anybody else. This we take to be proof beyond reasonable doubt; because, if it went beyond that, if it required absolute certainty, as it is of a moral character, this species of evidence would always be insufficient. It is, therefore, that evidence which excludes every other hypothesis, beyond reasonable doubt.

Now, we are to consider these rules as applying to the present case. The charge is a charge against Dr. Webster, of the wilful murder of Dr. Parkman, on the 23d of November last.

In the first place, it is necessary to ask, what is the indictment, inasmuch as it is the duty of the Court to decide upon all points of law, and as the form of indictment is a question of law, under the authority which has been presented here. We have investigated this subject, and I now give the result.

This indictment contains four counts. I will not read them; but it charges the commission of the act of homicide by four different modes of death. Legal proceedings, established by old, long, well-confirmed precedents, sometimes do seem to differ. But the general rule is, that no man shall be held responsible for crime, in any form, until it has been substantially set out in some charge — substantially and

formally set out in some charge. But whatever may be the form, the offence shall be fully and formally, clearly and substantially, set forth. It therefore often becomes necessary to set forth several counts. When a person, who does not know these rules, sees these counts, he is very apt to say that these are inconsistent. But we are to consider that a party who draws the indictment often does not know which charge will be proved; but, in order to meet the evidence, he may set them forth in as many counts as he pleases, and aver as many modes of death as he chooses, and if any one of them is proved, that is all that is necessary to sustain the indictment. Satisfactory proof of any one mode of death is sufficient.

It is said, that there are various forms of indictment adapted to many of the modes in which death may be inflicted. But is not science continually discovering new modes? Suppose, in the chemical laboratory, a person might be held fast, while chloroform was placed over his mouth, until he dies. Suppose such a case has never before occurred. Shall such a party escape on that account? I think not. And, therefore, as in cases of new modes of locomotion, the common law has a rule for all new cases. Not that it foresaw that a steamboat would be built, or that railroads would intersect the country; yet, its general principles embrace all these cases. And, therefore, whatever be the form of death, still the charge in the indictment, if it presents the mode of death in as special a manner as the circumstances of the case will allow, is sufficient.

The same authority that has been cited I will read a passage from. (East's Crown Law, chap. 5, sect. 13.) "The manner of procuring the death of another, with malice, is, generally speaking, no otherwise material than as the degree of cruelty or deliberation with which it is accompanied may in conscience enhance the guilt of the perpetrator; with this reservation, however, that the malice must be of *corporal* damage to the party. And, therefore, working upon the fancy of another, or treating him harshly or unkindly, by which he dies of fear or grief, is not such a killing as the law takes notice of. But he who wilfully and deliberately does any act which apparently endangers another's life, and thereby occasions his death, shall, unless he be clearly proved the contrary, be adjudged to kill him of malice prepense." The mode is not material.

How are we to consider this indictment? The first count contains the charge of death by striking with a hammer; the second, by some thing nearly like it; the third, by throwing upon the floor, and beating with the hands and feet, and thereby producing death; and the last is the count which I shall presently read.

Now, in a case of this description, if the parties prove, to your satisfaction, that Dr. Parkman lost his life by any means suggested, of which there has been proof offered, perhaps the reasonable probability would be, independent of any direct proof about the body, that it was done by a blow, or a stab in the side, or something similar; and, therefore, if such fact were proved, it might be considered sufficient. It may be impossible to determine in which of these modes death was produced; yet, if it was made in some of the modes suggested, then it will warrant the finding against the defendant.

The last count is as follows:—

"And the Jurors aforesaid, upon their oaths aforesaid, do further

present, that the said John W. Webster, of Boston aforesaid, in the county aforesaid, in a certain building known as the Medical College, there situate, on the 23d day of November last past, in and upon the said George Parkman, feloniously, wilfully, and of his malice aforethought, did make an assault on him the said George Parkman, in some way and manner, and by some means, instruments and weapons, to the Jury unknown, and did then and there, feloniously, wilfully, and of his malice aforethought, deprive of life, so that he, the said George Parkman, then and there died; and so the Jurors aforesaid, upon their oaths aforesaid, do say, that the said John W. Webster, him the said George Parkman, in the manner and by the means aforesaid, to the said Jurors unknown, then and there, feloniously, wilfully, and of his malice aforethought, did kill and murder, against the peace and dignity of the Commonwealth aforesaid, and contrary to the form of the statute in such case made and provided."

The Court are of opinion, and for the purposes of this trial adopt it, that this is a good count of the indictment; and, from the necessity of the case, it is so; because circumstances may be imagined in which the cause of death could not be introduced into an indictment. Some books enumerate various modes in which death may be inflicted — strangling, smothering, and depriving of breath; but if new modes occur, as the use of ether, or chloroform, continued so as to produce death, the body may be put into such a condition that no one can determine how death was occasioned, and it may be said, "to the Jurors unknown." The precaution which is taken in the books, in explaining murder, shows that death produced merely by fright or grief is not included. A person who frightens another to death is not, strictly speaking, a murderer. Murder must be some physical force applied to the person. This count charges an assault. That is a technical term, well understood in law; it is something inflicted upon the person, and naturally excites sudden and violent resentment.

Then this count charges death, by means, instruments, and weapons, to the Jurors unknown. Now, the rules of law prescribe, that the Grand Jury will present the charge with as much certainty as the circumstances will admit. And if there was no evidence by which they could specify more particularly, then this count is conformable to the law. And, therefore, if you are satisfied that the defendant is guilty of the crime charged, this form of indictment is sufficient to warrant a conviction. This is all, I believe, it is necessary to state, with regard to the form of the indictment.

Then what is necessary to be proved? It is necessary, in the first place, to establish the *corpus delicti*, or the offence charged; that the death was effected by violence, and that the circumstances are such as to exclude accident or suicide.

Now, Gentlemen, what are the facts charged? They are these: It is alleged that, on the 23d of November, in the forenoon, Dr. George Parkman — very well known by most persons in this vicinity — was in good spirits and health; that he walked with Mr. Shaw down town; that he was seen, in different places, that forenoon; that he was traced to different places, until between half past one and two o'clock; that he was seen about to enter the Medical College; that, having gone in, he never came out of that College alive;

that he was missed as soon as he would naturally be. It is further charged that no general proclamation was made till Saturday morning. Search was made for him, in various directions, on Friday and Saturday morning, but it was not thought best to make a public proclamation until the cars on the various railroads came in at noon; at that time the police were called into action, and search was made. That such search was continued, with great activity, in all directions where there was any likelihood of his being found, until the termination of a week; that certain remains of a dead body were found, which led to the arrest of the defendant; that the next day, proper examinations were made; and that there were further discoveries — that further parts of the dead body were found, and examined, under such circumstances as to induce a reasonable belief that they constituted portions of the dead body of Dr. George Parkman. This is the charge; and you are to decide whether the evidence does, or does not, tend to charge guilt upon the defendant.

In the first place, is the crime proved? If the party was in good health, and in good spirits, and that he so continued to the day of his disappearance, by the evidence before you, this must be considered a fact, until something to the contrary is shown. It is alleged that he went to the College, and met Dr. Webster. This is admitted by himself; but then the question arises, whether anything further was heard from him.

Three questions, then, arise in the present case. First, — were these the remains of the body of Dr. Parkman? And if so, were they found under such circumstances as to exclude any belief that he came to his death by accident, or suicide, so as to leave the other conclusion, that he came to his death by violence? And if so, then by whose hand?

In the first place, then, Gentlemen, it seems to be proved, by testimony that is unquestionable, that he disappeared some time in the forenoon, so far as his family are concerned, on Friday, the 23d of November, and that he did not return that day to dinner. That is a fact uncontested.

Then another question arises. Whether any other mode or cause of that disappearance is shown? It is argued that the search which was made was unusual, was unprecedented, was extensive; that every line of inquiry was followed up, which seemed to indicate a favorable result, and no discovery made.

Perhaps, as the first point on the part of the defendant was on the score of the *alibi*, it may be as well to refer to that; because, if, after the time when, by the probable circumstances of the case, it would appear from the proof that his life was destroyed in the Medical College, if at all, he was seen elsewhere, of course, that would be a circumstance inconsistent with the allegation that he was last seen entering the Medical College. If the *alibi* is made out, it is conclusive in his favor.

Now, the question is, whether he was seen. There is a point made afterwards, to which it may be necessary to allude. When you are called to consider the evidence of any particular fact, of course, you are to decide upon the preponderance of the weight of evidence in favor of or against it. And, therefore, when a certain amount of evidence is adduced to establish one conclusion, if there is

a vast, overwhelming amount of evidence, to establish the other, however the proof might have been if it stood alone, it will not stand against the greater mass of testimony.

The witnesses in favor of the *alibi* of Dr. Parkman are Mrs. Hatch, Mr. Thompson, Mr. Wentworth, Mr. Cleland, Mrs. Rhodes and her daughter, and Mrs. Greenough. It is not necessary to go over all their evidence. You will remember that the notice of Dr. Parkman's disappearance appeared in the public papers on Saturday afternoon; that on Sunday a general inquiry was made; that on Saturday afternoon and evening, and on Monday, they had a pretty thorough search; and so it continued, up to the succeeding Friday, when the remains were found. No doubt, during that period, there were various stories, as to his having been seen during the day of his disappearance. It may be very probable that there were some accounts which were made during that period, and very honestly made, by the persons who thought they saw him. But, I said that this was to be compared with the evidence on the other side. Gentlemen, perhaps it is somewhat peculiar to our own country, but it is perfectly well known to all men of experience, that, when a great event of this kind arises, which fastens upon the mind of the public, the whole community are resolved, at once, into a body of inquirers. Everybody tells to everybody else whom he has seen, and what he has seen, within the last twenty-four hours, or within the last week. It is upon those statements that at last a line of inquiries is made, which leads to the true result. One says, I saw such a thing; and another, another thing; but, when compared, they do not agree.

There are two circumstances which apply to proof of *alibi*. In the first place, there is the uncertainty which applies to the fact, not to say anything about an intentional misleading; but a witness is always liable to be mistaken. Then, in order to establish the fact, it must be proved, beyond reasonable doubt, that the party was seen at the precise time and place where he is alleged to have been seen by the witness. And that is the difficulty with regard to proof of *alibi*. There is always room for the difference of time to be explained, owing to the difference of time-pieces, which sometimes vary five or ten minutes.

On Saturday, notice was given. On Sunday, his disappearance was pretty generally known in the west part of the town. I believe, on Monday morning, it was universally known in the city. Then thousands were put upon their recollection, to say whether they had seen Dr. Parkman, where, when, and under what circumstances. Now, he was a person very well known. Perhaps no man of his age and situation was better known here, in person, than himself. Now, notwithstanding this proof, the question is whether he would have been likely to have been seen by many persons, if he had been moving through the streets in the manner indicated by this testimony. Judge for yourselves. Would there not have been hundreds or thousands of persons who would have seen him, and have testified to it? This, however, is negative testimony. But if anything happens, and persons do not see it, if they were placed where they might have seen it, this, though negative, leads to an affirmative result. That is one of the modes to lead you to a view of the truth. If you are satisfied that there were a great number of persons along the streets where he

was said to have been seen — Cambridge, Court, Washington streets, &c. — would there, or would there not, have been a great variety of persons who would have confirmed that statement? If so, it is a comparison of the testimony, negative on one side, positive on the other.

Now, it is said, that positive testimony is more available than negative; and it not unfrequently happens, in proof of this sort, that one witness sees one thing, which another did not. Now, when two persons are placed in a position to observe, and one says that he did see it, and the other says that he did not, I do not see why they do not contradict each other. For, though one is negative, and the other positive, yet, if the one who testifies that he did not see it was placed in a position in which he would have seen it, if it had occurred, they are contradictory.

Owing to the dimness of the hour at which he was said to have been seen by Mrs. and Miss Rhodes, it is possible that they were mistaken in the individual. They may have been mistaken, also, in the day. If a person says, "I know it was the day, because I wrote a note on that day," he may have misdated it at the time, which is a matter of common experience. One of the papers in this case bears upon its face an impossible date, having been dated the thirty-first of November. If the actual proof is such as to show that the deceased party lost his life at or about two o'clock, in the Medical College, then it is impossible that he should have been seen after that time; and, whatever may be the causes, it must be that the parties were mistaken. But this depends upon the main evidence brought to establish the case. If that puts it beyond reasonable doubt that he was there, and at that time murdered, then it places it beyond reasonable doubt that he could not have been seen at a later hour.

One remark with regard to those different persons who saw him in the course of Friday afternoon. They do not come to establish any one theory. Now, if he had been seen by one person in one place, and subsequently by another person in that direction, and so on a certain length of distance and time, then they would have tended to corroborate each other.

Mrs. Hatch is not relied upon. The other testimony is, that he was seen by Mr. Thompson, who came from East Cambridge, and who estimated his time by the East Cambridge Court-house clock — a new clock, and proved by some witnesses to be irregular; by Mr. Wentworth, who saw him in Court-street, nearly opposite Mrs. Kidder's; by Mr. Cleland, who saw him in Washington-street; and by Mrs. and Miss Rhodes, who saw him in Green-street, going in an opposite direction to them, as they were going home, to Chambers-street; and Mrs. Greenough saw him in Cambridge-street. They do not seem to correspond with any one theory.

If the other evidence is sufficient, it goes to show that this must have been a mistake. But this is proper evidence to compare with the other evidence; and, therefore, if of such a character as to raise in your minds a reasonable doubt, and if the contrary be not proved beyond such reasonable doubt, the case of the Government is lost, and the defendant is entitled to an acquittal.

The difficulty of establishing such proof is, first, as to the day; second, as to the time of day; thirdly, as to the identity of the per-

son. Then contrast it with the supposed controlling proposition, that if Dr. Parkman had been in those places, other persons would have seen him. Take these things into consideration, and see if a reasonable doubt is produced. It is true, that the time is not of itself material to this case. If it should be established that he was seen at half past one, or two, or three, or four o'clock, still the crime may have been committed. But the importance of this proof is this: Inasmuch as all the proof, on the other side, tends to establish the fact that he did go, about a quarter of two o'clock, into the Medical College, and that he did not come away, then it would have a tendency to control that proof, and render the fact doubtful. But if the evidence is otherwise, such as to prove that Dr. Parkman lost his life at the College, about two o'clock, on Friday, then it cannot be proved that he was abroad, whatever may have been the source of the mistake. But the question, whether he was abroad, bears upon that proof.

Then the question is, whether the defendant was there upon that day, and did meet Dr. Parkman by appointment, and did act upon that temptation to kill Dr. Parkman. It is not necessary to establish the fact of seducing him there; but, if proved, then all implied malice is laid out of the case, because it is murder by express malice.

On that Friday, Dr. Webster lectured. It was the last day he was to lecture, previous to the ensuing week. He remained there, as he says, till about half past one o'clock, and did meet Dr. Parkman, and paid him the money. Tracing the evidence, then, with regard to Dr. Webster, it appears that he was at Mr. Kidder's that afternoon; and there is some evidence tending to show that he was at the College about six o'clock. This testimony is from Mr. Preston, a medical student, who was in the low wing, at the west end, where the students are in the habit of practising dissection, daily and constantly. Mr. Preston says he was coming out of the dissecting-room at about six o'clock. I think you will recall his testimony, though it was given pretty early in the trial. He states that he had an engagement at seven o'clock; that his own tea hour was half past six o'clock; and that he started early enough from the College to reach home in season for tea; so that he states it at six or half past six, that he saw Dr. Webster passing into the College shed.

This is the evidence of that day. If there is no evidence beyond this — if Dr. Parkman is not seen afterwards — then the conclusion seems to be strong, that, having gone there in good health, and in one week found bereft of life, he came to his death, not by accident, not by the visitation of Providence; because, if it had been by accident, it would have been known, — there would be no motive to conceal it. The concealment, therefore, has a tendency to show, from the facts and circumstances under which this body was found — if that was his body — that he came to his death by violence. You will judge whether that is a natural and proper conclusion.

If so, then the question arises, Were these his remains? Was the body of Dr. Parkman found? It has sometimes been said by Judges, that a Jury never ought to convict, in a capital case, unless the dead body is found. That, as a general proposition, is true. It sometimes happens, however, that it cannot be found, where the proof of death is clear. Sometimes, in a case of murder at sea, the body is

thrown overboard, in a stormy night. Because the body is not found, can anybody deny that the author of that crime is a murderer?

Now, about the mode of death. Suppose that a man is struck, on a deck of a vessel. His skull is fractured, and he remains for a length of time insensible. Suppose that, while in this condition, he was thrown overboard. The evidence tends to show either that it was death from the blow or from drowning, though we cannot tell which; and yet, it may be said that it was certain that it was one, and as absolutely uncertain which it was.

It is not necessary for me to go into all the evidence. The remains were in three places. One was the privy, (and when we speak of the privy, we refer to the cellar of the building, the corner only of which was used as a privy;) a second part were found, partially calcined, in the furnace; and still other parts in the tea-chest; and all the parts being found near one place, and all connected with one apartment. If these places were resorted to for concealment, you will judge whether the person who concealed one part is the same that concealed the other. If a person had a motive to conceal one part, then he probably had a motive to conceal the other.

These are thought, by the witnesses, to be parts of one human body. But if, upon examination, it were found that there were two right legs or right arms, they could not be the remains of one body. They might, perhaps, have been the remains of anatomical subjects. It is, therefore, of importance to ascertain whether they were parts of one human body. If all the parts coincide with each other as one body — those parts that were found in the basement, and those found in the tea-chest, and those in the furnace, all corresponding — then the natural conclusion would be, that the same person who concealed one did the whole, and that they did belong to the same body. Then the question would be, whether those were parts of a body used for dissection; because, finding a dead body in the Medical College, the first natural conclusion would be that they were parts of a body used for dissection. Then the question is, whether that is negatived. The physicians have testified as to the manner in which the dissection was performed. Dr. Holmes and Dr. Wyman have testified. Dr. Ainsworth says that it is his business to keep an account of the subjects; and as they now have the sanction of the laws in furnishing the means of obtaining subjects, it is necessary to keep accurate accounts of them. He testifies that all are accounted for.

It is testified to be a uniform custom, when a subject is brought for dissection to the Medical College, to make some preparation before dissection commences.

That is done by injecting the arteries with some chemical substance, which tends to preserve the body. This, therefore, is the first question, to ascertain whether these remains were parts of an anatomical subject. One inquiry was, had the blood-vessels been injected? That could be ascertained by chemical analysis. Portions of the blood-vessels were taken out, and committed to the examination of Dr. C. T. Jackson, and that late eminent chemist, Dr. Gay, and Dr. Crossley. In consequence of Dr. Gay's death, his examinations were not finished, but were concluded by Drs. Jackson and Crossley; and they testified that these arteries had not this anatomical injection.

Now, then, the first evidence that was offered was, that these parts were laid in juxtaposition, and that they appeared to correspond in height and figure with the body of Dr. Parkman. Here is one of the cases to which the rules of evidence apply, to which I called your attention in speaking of circumstantial evidence. If this had been alone relied upon, as proof of identity, it would be left doubtful; because parts of the body were wanting, and those the parts by which identity is commonly established. Had there been marks upon the portions of the body which remained, and they could have been proved as natural or artificial marks upon the body of Dr. Parkman, of which there was no evidence, it would have tended to prove identity. If there be, in the teeth, sufficient evidence of the specific identity of these remains with those of Dr. Parkman, then the fact that they did not differ, in shape, size, or height, from those which did belong to him, would have this effect: they would not, of themselves, be sufficient to prove identity; they would be conformable to the supposition that this was the body of Dr. Parkman, — not opposed to it, and yet not specific enough to be direct evidence of it. You are, then, to determine whether the body was identified by the teeth.

It is scarcely necessary for me to do more than to name the witnesses which have been called to testify upon that subject. It is certainly a very interesting inquiry, whether the teeth can be identified or not. It cannot have escaped notice, how great a similarity there is in this to the investigation of what are called fossil remains. Persons have studied the anatomy of the bodies of reptiles, and of the lower orders, to such a minute degree, that from the figure, from the openings, they are able to say, from a single bone, even, what class they belong to, and thus trace the inquiry, and ascertain the existence of races and species of animals. But still you are told here, by the anatomists, — by Dr. Jeffries Wyman, who is reputed to be excellent, — that by finding a small piece of bone, it is possible to determine to what part of the body that belonged. There are particular parts through which particular nerves, or vessels, pass, by which it can be determined that they are parts of the temporal bone, the cheek-bone, or some other.

Dr. Keep was called, and stated that, three years previous, in 1846, he made teeth for Dr. Parkman, to whose teeth and stumps various adjustments were to be made. He testifies that they were adjusted and fitted. Now, the gold having been melted, but the blocks of teeth remaining, with several peculiar angles and points, the question was, whether he could ascertain their identity. It is merely necessary for me to refer you to this testimony. He was of opinion that he could identify them; he was satisfied that they were the teeth of Dr. Parkman. If you are satisfied that that conclusion was right, then this testimony is of a very different character from that of the shape and size, and has a strong tendency to prove that it was the body of the deceased person. I barely refer to the persons who have testified to this. Dr. Keep, with his assistant, Dr. Noble, think that they can identify these blocks of teeth. Dr. Morton is of opinion that there is not enough to enable an artist to identify them And with regard to all that, Drs. Harwood, Codman, and Tucker, have testified the other way.

You are to determine, by all the testimony, whether those were the teeth of Dr. Parkman, and belonged to the same body as the other parts; and, if so, it has a strong tendency to a proof of death by violence, and then the *corpus delicti* is established; otherwise, not. If this is not proved to the satisfaction of the Jury, beyond reasonable doubt, then the dead body is not proved to be that of Dr. Parkman, and the proof of the *corpus delicti*, as offered by the prosecution, fails.

But if this is satisfactorily proved, then the next question for the Jury is, By whom was it done? I have already submitted to you the question, whether or not these belonged to the same person. If they belonged to the same person — if these were the teeth of Dr. Parkman, — (you will recollect the reasons that they gave why the teeth were in the head before being put in the furnace,) — then one part, being identified. identifies the rest.

Gentlemen, I shall pass over all that has been said in regard to Mr. Littlefield. I am not aware that the conclusion depends upon his testimony. You are to judge of, and give that weight to it, as you think it deserves, so far as it should command attention. It is not impeached. You will attribute to it the value and importance which it merits.

Before proceeding away from this question of the remains, it may be proper to allude to the fact which was stated by Mr. Littlefield — I am not sure that it was by any other witness — that is, why these remains were not placed in the dissecting-vault, instead of being placed in the laboratory and cellar. Seeing limbs there, would have excited less suspicion. Mr. Littlefield says that it was double locked; and that, though the key was there, it was in a dark place, and he had charge of it. I state several things here, as I happen to find them upon my minutes. because they may as well come in at one place as at another.

The general outline only of these facts it is necessary to state. Undoubtedly, from Monday and Tuesday, till Friday, there was a pretty close watch kept on the Medical College. On Monday, one of the family went there, — Dr. Samuel Parkman; Mr. Kingsley, and two officers with him, were there also. A more thorough investigation was made on Tuesday, by four officers, yet probably not particularly thorough; but every part had been looked through, at least, except the vault. I speak of it as a vault, because, though it is a large section of the cellar, yet it is separated from the rest by a solid wall, and separated from the dissecting-vault. The privy leading from the lower laboratory was the only means of access to it, except by taking up the floor, or by making an aperture through the brick wall. Every part of the building had been searched except that.

With regard to the conduct of the defendant at the time of the arrest and since, it strikes us that not much can be drawn from it. Such are the various temperaments of people, such is the rare occurrence of an arrest for this crime, who can say how a man ought to behave? How can you say that he was too much moved, or too little moved? Have you had any experience how you would behave in such a position? Judge you concerning that. The facts are before you, regarding his conduct and language. They are a part of the evidence, but it strikes me that they cannot be very important: if the testimony is sufficient without, then this species of evidence is

unnecessary; if they are not, then the conduct seems not sufficient to give any conclusive effect to the other proofs.

Now, Gentlemen, there are two things to consider. From the law which I have read to you, it appears that if two persons meet, and one voluntarily destroys the life of the other, and no evidence appears, either in the testimony brought to convict him, or in that produced in his behalf, to show provocation, or heat of blood, it is held to be murder, or homicide with malice. I have stated that malice may be either implied or express. Malice express is where there is evidence of design, in the previous acts or conduct of the accused.

Murder by poison must be by express malice, because there must have been preparations previously. But whether malice, in any case, be express or implied, it is always murder, if the homicide be voluntary, and not death produced in heat of blood.

There are two theories on which this is thought to be murder. One is that it was by express malice, and the other is that it was by implied malice; that is, that if the express malice is not proved, and if the mitigation to manslaughter is not proved, still, in cases where there is not accident or suicide, it is murder by implied malice.

The theory on the part of the Government is, that Dr. Parkman was the creditor of Dr. Webster; that he held two notes against him; that one was given as early as the year 1843, for 400 or $500; that, afterwards, another note was given, in which Dr. Parkman advanced another sum, making up in the whole $800, and other friends of Dr. Webster contributed enough to make up the sum of $2400, so that, when collected, it would be partly his own and partly the money of others; that Dr. Parkman had insisted very urgently for the payment till the time of his death. It would seem, from the facts which appear in the case, that what he was urgent for was the payment of his own debt. Now, although he held the note for $2400, which was not due till March, 1851, still, that embraced the $500, and the $332, a part of the old note; so that this smaller note, though not given up, was to be considered as paid when the larger note should be settled. You perceive, therefore, that he held two notes, one due to himself, and one due to himself with others; that he had pressed for payment rather earnestly; that Dr. Webster had put him off; that the time had come for receiving the annual stipend; that Dr. Parkman had expected to receive his pay at that time; that Dr. Parkman wished to obtain the money received from the sale of tickets; that this fact was received from Mr. Pettee by Dr. Webster himself; that, on Monday evening, Dr. Parkman called at the College, and urged Dr. Webster very strongly for payment; that the reply was, that he could not pay him on that day; that he was finally put off until Friday.

It seems, however, that, in the interval, he was seen, on Thursday, to go to Cambridge. Now, the paper which was found in his possession, being a paper drawn up by Dr. Webster's friend, Cunningham, will exhibit the pecuniary transaction between these two parties.

The suggestion is, that Dr. Webster called at Dr. Parkman's house on that Friday morning, and said that, if Dr. Parkman would come to the Medical College at half past one, he would pay him. The ground taken on the part of the prosecutor is, that this was done for the purpose of inducing Dr. Parkman to come there, without the

intention of paying him; that he did not pay him; that he had not the means of paying him: but that his object was to get possession of those notes on which this claim was due. And, in consequence of this engagement, Dr. Parkman did go; that Dr. Webster, instead of being prepared to pay his debt, took measures to destroy the life of his creditor, with a view of getting possession of the notes, without payment; that he did get such possession; that he then gave out to the world that he had paid $483.64, which was the smaller note; and therefore that the object was an act of plunder, and that, too, by taking the life of the individual. If that is proved to your satisfaction, undoubtedly it is a case of express malice.

If proved, I cannot distinguish between this and a case of property found upon the person alleged to have plundered another of his property. Such possession, established by proof, beyond reasonable doubt, tends to show that plunder was the object for which the act was done.

Gentlemen, you will have the notes. There is abundant proof about the pecuniary transactions between Mr. Pettee and Dr. Webster. Mr. Pettee was an officer who was appointed to collect the dues from the students. He testifies to you that he happened to be at the Medical College on the morning of that Friday, and that he went there for the purpose of paying Dr. Webster $90, which was due to him, having paid him $250 or $260 before. $500 was received by Mr. Pettee to Dr. Webster's credit, at one time, about half of which was paid to Dr. Bigelow. You will compare these statements of Mr. Pettee with the bank-book, and say whether these were the sums received by Dr. Webster during that period. There is one of the circumstances which is very significant, and that is, that the $90 paid, on the morning of that Friday, to Dr. Webster, by Mr. Pettee, was not a part of the money used for the payment of the note, for $483.64, which Dr. Webster stated that he paid on that day; because it appears that that was paid in a check on the Freeman's Bank; and also, that, on the next day, though possibly on that day, after two o'clock, but not credited, as it was after bank hours, until the next day, when the check was entered to his credit, on the books of the Charles River Bank.

Mr. Pettee says, that he told Dr. Webster that he did not choose to be troubled by Dr. Parkman; and, on account of his desire of avoiding Dr. Parkman, he had previously told Littlefield to inform Dr. Webster that he would meet him on that Friday morning, at the Medical College, to pay him whatever sums were due. He testifies that, though he had some business transactions with Dr. Webster at that time, he thinks he did not mention to Dr. Webster the harsh language used by Dr. Parkman. Still he said he did mention that he had had trouble, and that Dr. Webster said, "There would be no difficulty about it, for he had settled with Dr. Parkman."

If this engagement with Dr. Parkman was made by Dr. Webster, with the purpose of getting possession of those notes, and by means of this arrangement he did get possession of those notes, it would be a very strong case of murder by express malice. A fact, if it be so, that there was still money due on the larger note — I mean, money not paid, and which was not due for more than a year — would be a still stronger circumstance than finding the note that was due; because

it is stated now, by the defendant, that he had collected money for the purpose of paying the $483, but he has not stated that anything more than that was paid. The evidence to show that these two notes were found in the possession of Dr. Webster, upon a search of his house at Cambridge, is before you; and you will judge whether it proves the fact beyond reasonable doubt. This is one of the facts, in the chain of evidence, which the Court deem material; without which, the chain of circumstantial evidence would not seem to be complete.

It was my intention to examine all the testimony of his own account of the payment of the money. I think that you will find that the statement made to Mr. S. Parkman Blake was one of the fullest. I intended to read it, but I think it is not necessary. He says, that Dr. Webster informed him, that, about the time of the engagement, namely, at half past one, on Friday noon, Dr. Parkman came to the Medical College, and that he paid him in the smaller room; that he took the money, and started off hastily, with the money and papers in his hands; that Dr. Webster said to him, "You have not cancelled the notes;" that Dr. Parkman turned and dashed his pen through the signature, and was then hurrying away, when Dr. Webster spoke to him about discharging the mortgage; that he replied, "I will go and see to that." This mortgage turned out to be on personal property. The office was, therefore, that of the Town Clerk, at Cambridgeport, and not at East Cambridge, as was supposed. But, if you find that money was due on the other note, and that that note was obtained without paying anything, you will have to consider the motive for it. If it is proved, this may tend to make out a case from circumstantial evidence, because it would tend to connect the defendant individually with the possession of the note, having a motive to obtain it.

Then, there is a great variety of circumstances, tending to show the acts of the defendant in concealing these remains. Now, if it be surmised that these remains were placed there after the death of the party, and without the knowledge of Dr. Webster, of course, this concealment would not affect him. But I have already stated that the three portions were so situated, with regard to each other, that whoever had a motive to conceal one probably had a motive to conceal the other. And if this was done under circumstances so as to render it necessary that it must have been done with the knowledge of Dr. Webster, that strengthens the conclusion that it was done by him, or, at least, with his concurrence.

It is not necessary to go through all the circumstances relied upon to show the conduct of the defendant after he was arrested. If the defendant was charged with the guilt of murder, or if any man found himself charged with the guilt of such an offence, and the circumstances remain unexplained, they might tend to show an apparent consciousness of guilt.

Dr. Webster's conduct, we think, ought to be considered to have a very slight bearing. There is nothing, from the experience of the Jury, to show how men will act when charged with such a crime.

The fact, in regard to Dr. Webster's statements, made to different persons, that he never mentioned two notes, and yet two notes are found in his possession, would go to show motives of a conclusive character. So the fact, that these papers were found in his possession, or custody, in Cambridge, is of importance. It may be that he

alluded, in his letter to his daughter, to the package given to his wife a day or two before, when he had been applied to to obtain some citric acid. The letter does not say package, but "bundle." Whether those were the papers which he requested to be concealed, would be immaterial, and, therefore, it would be immaterial whether that was the package which he referred to, because the papers themselves furnish the material evidence. But if it referred to them, the letter itself might go a little further, and show that he thought the possession of those papers might be hazardous to him; and, therefore, the attempt to conceal them, if proved, would bring it within the rule, that the attempt to suppress proof, or to alter any of the facts in the case, would go against the accused. But if it led to a search, and hence these papers were found, the papers have the same effect, whether it alludes to them or not.

It is sometimes said, that small circumstances go to show great truths. Identity is sometimes proved by small circumstances. It is argued, on the part of the prosecution, that a piece of twine was tied about these remains, similar to what was found in Dr. Webster's room. Gentlemen, whoever undertook to destroy these remains, whether the defendant or any other person, had access to the rooms of the defendant, and undoubtedly would use all the means within reach, whether under lock and key or not; to a person with such views, a lock would be of little avail. The whole apartments may be considered to be under the control of Dr. Webster. Of his knowledge of the fire, and his presence, you can judge from the evidence. With regard to this twine; that somebody had the intention of concealing these remains — proposing first to conceal them, then to destroy them — is pretty manifest, from the manner in which they are covered up and concealed. The same person who had the motive to do one, probably did the whole. The same person who packed up the body, used the cord; it seems a slight circumstance. By not dwelling upon these various circumstances, I do not intend to withdraw them from your consideration. But the time admonishes me that I must draw to a close.

I might enumerate the witnesses. They are very numerous. The persons who speak of the search are, Messrs. Shaw, Blake, Tukey, and others. As shown by witnesses, Dr. Francis Parkman and Mr. Blake, the conduct of the defendant, at different times, was of such a character, and he was in such a situation, that you will judge how far any statement made by him at those times ought to be considered as evidence bearing much against him.

There is one circumstance, which is dwelt upon with some force, by the prosecuting officer, which ought, in the opinion of the Court, not to be considered against the defendant. That is, that he waived an examination in the Police Court. Here was the Inquest charging him with murder; — what is the purpose of the Police Court? It is simply to find *prima facie* evidence, to warrant a commitment. It is customary, oftentimes, to waive an examination there. The magistrates would not go into as thorough an examination in that Court as here. Its object is simply to ascertain whether a warrant shall be issued for the commitment of the accused. His waiving an examination there seems to us immaterial, more especially as there had been an Inquest, charging him with an offence. [The Judges consult

together.] I am told there had been no Inquest at that time, but that is immaterial. There was sufficient evidence to hold the party for trial; and that is all that is required.

Then, Gentlemen, the question of the anonymous letters. If a person attempts to divert attention from himself, more especially if it is to fix attention upon others, that is one of those circumstances, arising out of human conduct, when an individual has been guilty of crime. But the facts cannot be proved certainly; and unless they are proved beyond reasonable doubt, they are not material. This only goes to show that, if the proof existed without them, they would corroborate it. But if the letter marked "Civis" is written by him, you will judge whether he was placed in such a situation as to induce him to write it. A man may be placed in such a situation that he thinks there are strong circumstances against him, and, without actual guilt, may attempt to ward off proof. But proof is necessary. With regard to the other two letters, the proof is slight. You will judge for yourselves whether any of them were written by the defendant.

If this act of homicide was committed by Prof. Webster, and there is not sufficient proof to mitigate the crime to manslaughter, then the conclusion would be that it was murder by implied malice. If the other assertion is proved, that it was intended to decoy him to the College, to do this deed, that is express malice. If it is not proved that *he was there*, then there must be a general verdict of acquittal.

There is another point. It is competent for a person accused to give evidence of character. Now there are cases in which a man may stand in such a situation that a good character would be very important to him. A stranger may be placed where there were circumstances tending to charge him with larceny, or with some other species of crime. He may show that, though there are suspicious circumstances, yet, where he is known, he is esteemed to be of perfectly good character; and that sustains him. Such a character may defend him from such a crime. But where it is a question of a great and atrocious crime, it is so unusual, so out of the ordinary course of things, he must have been influenced by such facts and circumstances as to create effects which have unfrequently been produced upon a human mind, so that the evidence of character may be considered as far inferior to what it is in the case of smaller crimes. Against facts strongly proved, character cannot avail. It is therefore in smaller offences, in such as relate to the actions of daily life, — that if a man be charged with being light-fingered, for instance, — he may bring evidence with regard to his character, showing that he would not be likely to yield to a small temptation. In such a case, evidence concerning character may be given with some effect.

But with regard to the higher crimes, the mere possession of a good character, though of less avail, is competent evidence to the Jury, and is one of a species which the party has a right to offer. The party accused may give evidence of it; and if he does, the party opposed may present evidence to contradict his witnesses. But a person who is charged with such an atrocious crime as this, ought to prove his character by very strong evidence, to make it counterbalance strong proof on the other side. It is not competent for a

prosecutor to give in proof of the bad character of the defendant; and it cannot be done, unless the party on the other side puts in evidence of his good character.

Gentlemen, I am sensible that there are a great many facts here. It is impossible that a great many things should not be omitted. I shall feel rejoiced if I have stated such of the main considerations of this case as shall enable you to come to a fair and just conclusion. Many things press upon my mind which I intended to mention; and yet I have taken as much time as I ought to take.

Gentlemen, we commend this case to your serious consideration. Weigh it under the rules of law. Consider that you have been called upon and set apart; in the first place, drawn by lot from those most experienced. You have been then selected from the body of those who have been drawn, with all the advantages of which the condition of humanity will admit. And, Gentlemen, when it is said that it is possible to err, that is true. It is nothing more than to say that we are human. It is always possible to err. All that we can hope to do — you in your department, and we in ours, — is to exercise the best faculties of our minds, to give all the weight to the evidence which it deserves, to weigh carefully on both sides; and although we should come to a result which, at some future time, may be proved to be erroneous, yet still a consciousness that we have done our duty will sustain us. I commend this cause to your consideration. Take sufficient time, weigh the evidence, and give such a verdict as will satisfy your own judgment, and your own sound conscience, and I am sure it will be a true one.

THE VERDICT.

Immediately on receiving the charge from the Chief Justice, the Jury retired, and the Court took a recess till a quarter to eleven o'clock.

As the hour drew near, the Court began to be again filled with the anxious crowd, who had heard that the Jury had sent to come into Court. A deep silence pervaded the room, as the announcement was made, that the Jury had agreed. Even from the densely filled gallery, there was hardly a sound that fell audibly upon the ear.

At twelve minutes of eleven, the prisoner, pale and thoughtful, was conducted to his seat within the dock. Shortly after, the Jury came in, solemnly and slow, and took their seats, as though they felt deeply that theirs was a painful task. Soon the Court entered; and the most thoughtless listened with breathless attention, to catch the first sound of those thrillingly important words, which, in a few short, flitting seconds, were to decide the prisoner's fate.

The profound and painful silence was first broken by the Clerk, who said :

Gentlemen of the Jury, have you agreed on a verdict?

Some of the Jury. We have.

Clerk. Who shall speak for you, Gentlemen?

Some of the Jury. The Foreman.

The Clerk then said — "John W. Webster, hold up your right hand! Foreman, look upon the prisoner! What say you, Mr.

Foreman, is John W. Webster, the prisoner at the bar, guilty, or not guilty?

Foreman. GUILTY!

Clerk. Gentlemen of the Jury, hearken to your verdict, as the Court have recorded it. You, upon your oaths, do say, that John W. Webster, the prisoner at the bar, is guilty: so you say, Mr. Foreman; so, Gentlemen, you all say.

When the Foreman pronounced the word Guilty, the prisoner started, like a person shot; his hand dropped upon the rail in front, his chin drooped upon his breast; and after remaining thus a moment or two, he sank into the chair, covering his eyes with his hands. A death-like silence followed, and all eyes were fixed in sadness on him whose hopes had now fled. For nearly five minutes the prisoner remained in this state, apparently unconscious, when Judge Merrick, his Counsel, went and conversed with him. The prisoner at one time seemed affected to tears.

No one seemed willing to move — to break the spell which kept all fixed in silence. At length the order was given to adjourn the Court, and the spectators began to leave. The prisoner remained some time after the Court adjourned, with his handkerchief to his eyes; and, at his own request, was removed to his cell, where he might be left to himself, free from the gaze of others.

TWELFTH DAY. — *Monday, April 1st.*

It having been generally known that Professor Webster would be brought up this morning for sentence, an immense collection of spectators was in attendance; and as early as eight o'clock, every position from whence a glimpse might be had of the unfortunate prisoner was occupied. Though the gathering was large, and composed of all classes of people, the demeanor of the concourse was most creditable. There were no tumults or noises, but the entire mass seemed awfully impressed with the solemnity of the occasion.

Agreeably to adjournment on Saturday night, the Court met at a few moments after nine o'clock. The assemblage in the Court-room embraced some of the most distinguished persons of the State, and many individuals from other parts of the country. There were, on the bench, Chief Justice Shaw, and Associate Justices Wilde, Dewey, Metcalf and Fletcher. The Counsel for the defence, Hon. Pliny Merrick, of Worcester, and Edward D. Sohier, Esq., of Boston, sat at a table in front of the bench; and the Attorney General, and George Bemis, Esq., occupied seats in front of the jury-box.

Precisely at ten minutes after nine o'clock, the prisoner, in custody of constable Jones and jailer Andrews, was brought into Court, and took his seat in the dock. His appearance betokened extreme melancholy. He was downcast and nervous, and appeared to be suffering from terrible emotions.

The vast audience having been seated, the Attorney General, Hon. John H. Clifford, rose, and in a tremulous and scarcely audible voice, addressed the Bench as follows: —

May it please your Honors: — The prisoner at the bar, at the January term of the Municipal Court, in this county, was indicted by the

Grand Jury for the crime of wilful murder. On that indictment, according to the provisions of the law, the prisoner was arraigned, and pleaded "Not guilty." Counsel of his own selection, capable and faithful, were assigned to him by the Court, to assist in preparing and conducting his defence. The issue then found has been presented to a Jury almost of his own selection. Every aid from Counsel has been rendered, in making out his defence, that could be rendered, and that Jury have found him guilty of the charge. It now becomes my painful duty to move, that the sentence which the law of this Commonwealth affixes to this offence should be passed upon the prisoner.

Mr. George C. Wilde, the Clerk of the Court, holding the indictment in his hand, now addressed the prisoner: — "John W. Webster, have you anything to say why sentence of death should not be pronounced upon you, according to law?"

The prisoner, upon the call of his name, rose, and placing his hands upon the bar in front of the dock, looked calmly towards the Bench. He seemed as if disposed to speak; but, after a bow, again resumed his seat, without doing so.

Chief Justice Shaw then addressed the prisoner as follows. Upon the call of his name, Professor Webster stood up, and during the speech of the venerable Judge, it would have been difficult to determine which was the most affected, himself or the unfortunate man to whom his remarks were addressed: —

John W. Webster: — In meeting you here for the last time, to pronounce that sentence which the law has affixed to the high and aggravated offence of which you stand convicted, it is impossible, by language, to give utterance to the deep consciousness of responsibility, to the keen sense of sadness and sympathy, with which we approach this solemn duty. Circumstances, which all who know me will duly appreciate, but which it may seem hardly fit to allude to in more detail, render the performance of this duty, on the present occasion, unspeakably painful. At all times, and under all circumstances, a feeling of indescribable solemnity attaches to the utterance of that stern voice of retributive justice which consigns a fellow-being to an untimely and ignominious death; but when we consider all the circumstances of your past life, your various relations to society, the claims upon you by others, the hopes and expectations you have cherished, and contrast them with your present condition, and the ignominious death which awaits you, we are oppressed with grief and anguish, and nothing but a sense of imperative duty, imposed on us by the law, whose officers and ministers we are, could sustain us in pronouncing such a judgment.

Against the crime of wilful murder, of which you stand convicted — a crime at which humanity shudders, a crime everywhere and under all forms of society regarded with the deepest abhorrence — the law has denounced its severest penalty, in these few and simple, but solemn and impressive words: —

"Every person who shall commit the crime of murder shall suffer the punishment of death for the same."

The manifest object of this law is the protection and security of human life, the most important object of a just and paternal government. It is made the duty of this Court to declare this penalty against any one who shall have been found guilty, in due course of the ad-

ministration of justice, of having violated this law. It is one of the most solemn acts of judicial power which an earthly tribunal can be called upon to exercise. It is a high and exemplary manifestation of the sovereign authority of the law, as well in its stern and inflexible severity, as in its protecting and paternal benignity. It punishes the guilty with severity, in order that the right to the enjoyment of life — the most precious of all rights — may be more effectually secured.

By the record before us, it appears that you have been indicted, by the Grand Jury of this county, for the crime of murder; alleging that on the 23d November last, you made an assault on the person of Dr. George Parkman, and, by acts of violence, deprived him of life, with malice aforethought. This is alleged to have been done within the apartments of a public institution in this city, the Medical College, of which you were a Professor and instructor, upon the person of a man of mature age, well known, and of extensive connections in this community, and a benefactor of that institution. The charge of an offence so aggravated, under such circumstances, in the midst of a peaceful community, created an instantaneous outburst of surprise, alarm and terror, and was followed by a universal and intense anxiety to learn, by the results of a judicial proceeding, whether this charge was true. The day of trial came; a Court was organized to conduct it; a Jury almost of your own choosing was selected in the manner best calculated to insure intelligence and impartiality; Counsel were appointed to assist you in conducting your defence, who have done all that learning, eloquence and skill could accomplish, in presenting your defence in its most favorable aspects; a very large number of witnesses were carefully examined; and, after a laborious trial, of unprecedented length, conducted, as we hope, with patience and fidelity, that Jury have pronounced you "Guilty."

To this verdict, upon a careful revision of the whole proceedings, I am constrained to say, in behalf of the Court, that they can perceive no just or legal ground of exception.

"Guilty!" How much, under all the thrilling circumstances which cluster around the case and throng our memories in the retrospect, does this single word import! The wilful, violent and malicious destruction of the life a fellow-man, in the peace of God and under the protection of the law — yes, of one in the midst of life, with bright hopes, warm affections, mutual attachments, strong, extensive and numerous, making life a blessing to himself and others!

We allude thus to the injury you have inflicted, not for the purpose of awakening one unnecessary pang in a heart already lacerated, but to remind you of the irreparable wrong done to the victim of your cruelty, in sheer justice to him whose voice is now hushed in death, and whose wrongs can only be vindicated by the living action of the law. If, therefore, you may, at any moment, think your case a hard one, and your punishment too severe — if one repining thought arises in your mind, or one murmuring word seeks utterance from your lips — think, oh! think of him, instantly deprived of life by your guilty hand; then, if not lost to all sense of retributive justice, if you have any compunctious visitings of conscience, you may perhaps be ready to exclaim, in the bitter anguish of truth, — "I have sinned against Heaven and my own soul; my punishment is just; God be merciful to me, a sinner!"

God grant that your example may afford a solemn warning to all, especially to the young! May it impress deeply upon every mind the salutary lesson it is intended to teach, to guard against the indulgence of every unhallowed and vindictive passion; to resist temptation to any and every selfish, sordid, and wicked purpose; to listen to the warnings of conscience, and yield to the plain dictates of duty; and, whilst they instinctively shrink with abhorrence from the first thought of assailing the life of another, may they learn to reverence the laws of God, and of society, designed to secure protection to their own!

We forbear, for obvious considerations, from adding such words of advice as may be sometimes thought appropriate, on occasions like this. It has commonly been our province, on occasions like the present, to address the illiterate, the degraded, the outcast, whose early life has been cast among the vicious, the neglected, the abandoned; who have been blessed with no means of moral and religious culture; who have never received the benefits of cultivated society, nor enjoyed the sweet and ennobling influences of home. To such an one, a word of advice, upon an occasion so impressive, may be a word fitly spoken, and tend to good. But in a case like this, where these circumstances are all reversed, no word of ours could be more efficacious than the suggestions of your own better thoughts, to which we commend you.

But, as we approach this last sad duty of pronouncing sentence, which is indeed the voice of the law, and not our own, yet, in giving it utterance, we cannot do it with feelings of indifference, as a mere formal and official act. God forbid that we should be prevented from indulging and expressing those irrepressible feelings of interest, sympathy, and compassion, which arise spontaneously in our hearts; and we do most sincerely and cordially deplore the distressing condition into which crime has brought you! And though we have no word of present consolation, or of earthly hope, to offer you, in this hour of your affliction, yet we devoutly commend you to the mercy of our Heavenly Father, with whom is abundance of mercy, and from whom we may all hope for pardon and peace!

And now nothing remains but the solemn duty of pronouncing the sentence which the law affixes to the crime of murder, of which you stand convicted, which sentence is, [the Court and spectators rising,]

That you, John W. Webster, be removed from this place, and detained in close custody in the prison of this county, and thence taken, at such time as the executive government of this Commonwealth may, by their warrant, appoint, to the place of execution, and there be hung by the neck until you are dead.

And may God, of his infinite goodness, have mercy on your soul!

At the conclusion of the sentence, the prisoner sank back into his chair, and wept. He took a handkerchief, and, after wiping his face, placed his forehead upon the bar, as if to conceal the current of his tears from the thousand eyes that were turned upon him. In this position he remained until disturbed by the officers who had him in charge.

About five minutes were now passed in solemn silence, which was suddenly broken by the Chief Justice, who said — "Mr. Sheriff, the prisoner is in your custody — Mr. Crier, adjourn the Court until to-

morrow morning, at nine o'clock." The prisoner was accordingly manacled and remanded, and the Court adjourned.

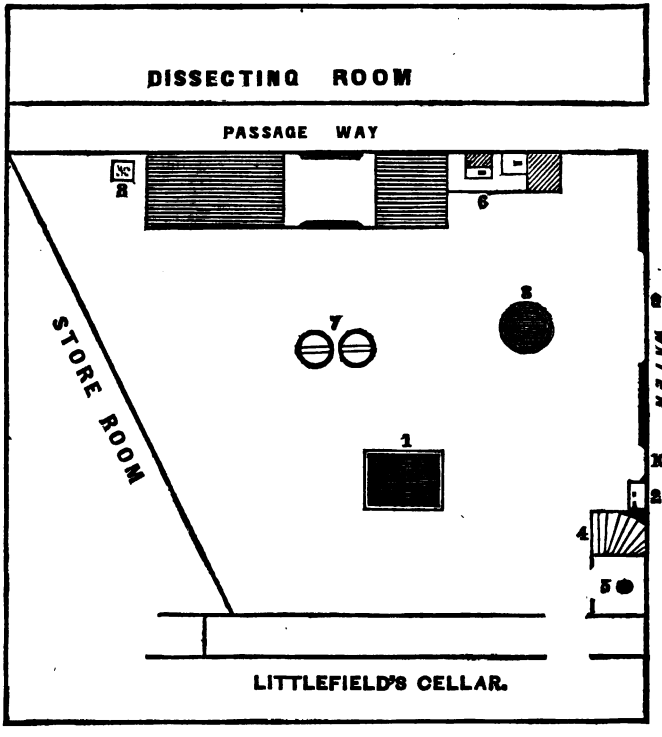
After Prof. Webster had entered the carriage, and was driven towards the jail, the crowd outside the Court-house dispersed in a quiet and orderly manner.

The prisoner's deportment, after his return to his cell, was marked by calmness, and he seemed much bowed down with affliction. Thoughts of his family were uppermost in his mind. Many distinguished gentlemen called to see him during the day, and all the consolation possible has been afforded to him. In the afternoon, the wife and daughters of Prof. Webster visited him, and passed several hours in his cell. They retired at sunset.

Thus ended a trial which has probably created greater interest and excitement than any event that has occurred for years in the city of Boston.

APPENDIX.

A.



EXPLANATION OF THE DIAGRAM.

1. A wet sink, connecting with the vault by a small pipe.
2. Sink, with Cochituate water.
3. Stove.
4. Staircase leading from the laboratory to the Professor's private rooms, and encircling the privy.
6. Privy, immediately under which the pelvis, right thigh, and lower part of the left leg, were found.
6. Furnace, in which were found the mineral teeth, parts of bones of the head, neck, arms, hands, right leg and feet.
7. Two large casks, for chemical purposes.
8. Tea-chest, in which the thorax and left thigh were discovered.
9. A very large window, overlooking the water, and about two feet above it, at high tide.
10. Another large window, but not so wide as No. 9, also overlooking the water. Both windows are without blinds or curtains.

B.

SPECIAL NOTICE.

GEORGE PARKMAN, M. D., a well-known and highly respectable citizen of BOSTON, left his house in WALNUT-STREET, to meet an engagement of business, on Friday last, November 23d, between twelve and one o'clock, P. M., and was seen in the southerly part of the city, in and near Washington-street, in conversation with some persons, at about five o'clock of the afternoon of the same day.

Any person who can give information relative to him, that may lead to his discovery, is earnestly requested to communicate the same immediately to the City Marshal, for which he shall be liberally rewarded.

Boston, November 25th, 1849.

$3000 REWARD!

DR. GEORGE PARKMAN, a well-known citizen of Boston, left his residence, No. 8, WALNUT-STREET, on Friday last. He is 60 years of age, about 5 feet, 9 inches high; gray hair, thin face, with a scar under the chin; light complexion, and usually walks very fast. He was dressed in a dark frock coat, dark pantaloons, purple silk vest, with dark figured black stock, and black hat.

As he may have wandered from home in consequence of some sudden aberration of mind, being perfectly well when he left his house; or, as he had with him a large sum of money, he may have been foully dealt with. The above reward will be paid for information which will lead to his discovery, if alive; or for the detection and conviction of the perpetrators, if any injury may have been done to him.

A suitable reward will be paid for the discovery of his body.

ROBERT G. SHAW.

Boston, November 30th, 1849.

Information may be given to the City Marshal.

$100 REWARD will be paid for INFORMATION which leads to the recovery of a gold double-bottomed Lepine turned-case Watch: ladies' size, full plate, four-holed jewelled, gold dial, black figures, steel hands, no second hands, no cap. Marked F. B. Adams & Sons, St. John-street, London. No. 61351.

FRANCIS TUKEY, *City Marshal.*

Boston, November 27th. *Police Office, City Hall.*

$1000 REWARD!

Whereas, no satisfactory information has been obtained respecting Dr. GEORGE PARKMAN, since the afternoon of Friday last, and fears are entertained that he has been murdered, the above Reward will be paid for information which leads to the recovery of his body.

ROBERT G. SHAW.

Boston, November 28th, 1849.

C.

SUFFOLK ss.

AN INQUISITION, taken at the City of Boston, within the County of Suffolk, the thirteenth day of December, in the year of our Lord one thousand eight hundred and forty-nine, before Jabez Pratt, Esquire, one of the Coroners of said County, upon the view of sundry parts of the body of a dead man,

viz., a thorax, kidneys, pelvis, two thighs, left leg, and sundry bones, there lying dead, by the oaths of Osmyn Brewster, John L. Andrews, Pearl Martin, Thomas Restieaux, Lewis Jones, and Harum Merrill, good and lawful men, who, being charged and sworn to inquire for the Commonwealth, when, how, and by what means, the said dead man came to his death, upon their oaths do say: That they all have been demonstrated to be parts of one and the same person. That these parts of the human frame have been identified and proved to be the remains and parts of the dead body and limbs of Doctor George Parkman, late a citizen of said Boston, aged about sixty years. That he came to his death by violence, at said Boston, on the 23d day of November last, between the hour of one and a half of the clock in the afternoon of that day, (about which time he entered, alive and in good health, into the Massachusetts Medical College building, situate in North Grove-street, in said Boston,) and the hour of four of the clock in the afternoon of the thirtieth day of November last, (when a portion of the said remains were found concealed in and under the apartments of Doctor John W. Webster, of Cambridge, in the County of Middlesex, in said College building,) in which building the residue of said remains were afterwards discovered. That he was killed, in said College building, by a blow or blows, wound or wounds, inflicted upon him with some instrument or weapon to the Jurors unknown, and by means not yet known to said Jurors, and that said blow or blows, wound or wounds, were inflicted upon him, and said means were used, by the hands of said Doctor John W. Webster, by whom he was killed.

In witness whereof, the said Coronor and Jurors to this Inquisition have set their hands and seals, the day and year abovesaid.

Jabez Pratt, *Coroner.*
Osmyn Brewster, *Foreman.*
John L. Andrews, *Secretary.*
Pearl Martin.
Thomas Restieaux.
Lewis Jones.
Harum Merrill.

Inquest held by Jabez Pratt, Esquire, Coroner, this 1st day of December, A. D. 1849, at the Medical College, Grove-street, upon a body supposed to be the body of George Parkman, there lying dead; and by adjournment to the same place to Monday, the 3d day of December, and also by an adjournment to the Ward Room, on Wednesday, December 5th, 1849. Wednesday, December 5th, the Jury of Inquest met and set until 7 1-2 P. M., and adjourned to Thursday, at 3 P. M. Met at 3 P. M., and adjourned to meet at room No. 15, in the Court-house, on Friday, 7th inst., at 10 o'clock. Met on Friday, December 7th, and adjourned to meet on Saturday, December 8th. Met at 9 o'clock A. M. on Saturday, and adjourned to meet on Monday, December 10th, at 9 o'clock A. M. Met on Monday, December 10th, and adjourned to Tuesday, December 11th, at 9 o'clock, A. M. Tuesday, 9 A. M., met according to adjournment, and adjourned to meet on Thursday, December 13th. Met, according to adjournment, and finished the evidence, and rendered the verdict. On each of the days, except December 6th, the Jury met at 9 o'clock, and continued through the day, until near 7 o'clock P. M.

John L. Andrews, *Secretary*

I, Martin Gay, being duly sworn, depose as follows. I am by profession a Physician and Chemist.

I was appointed, with other persons, to be a Committee for the purpose of making an examination of several parts of a human body, said to have been

found at the Medical College, in the City of Boston, — of bones, slag, various metallic and other substances, said to be found in the furnace in the laboratory of the same building, and of reddish brown spots upon the wainscot of the laboratory.

The committee were divided into sub-committees, for the purpose of apportioning to each the kind of service to which he was most accustomed.

The anatomical examination was especially committed to Dr. Winslow Lewis, Jr. I examined, however, with him, and at various times by myself, the parts of a human body; and I observed, so far as I made an examination, the same facts and appearances that Dr. Lewis has described.

The chemical examination was committed to Dr. C. T. Jackson, and to myself.

CHEMICAL EXAMINATION OF VARIOUS SUBSTANCES.

1. A piece of metal was found to be an alloy of lead and tin. 2. Another piece of metal was also found to be an alloy of tin and lead. 3. Having fused most of the pieces of metal into one mass, I gave one portion of it to Dr. C. T. Jackson. I examined another portion, and found it to consist essentially of an alloy of lead and tin.

4. The slag from the furnace was pounded into coarse powder; then, by sifting, several pieces of yellow metal were separated from it. I examined one of the pieces, and found it to be gold. I have partially examined the remainder, and believe them to be gold also, in a state of greater or less purity. The sifted portion was levigated, and will be examined. The metallic pieces already separated will also be examined further. Their weight is 47 grains.

5. An examination was made of small pieces of muscle, and of an artery and vein, by Mr. Crossley, under my immediate observation, for the purpose of ascertaining if the body had been injected with arsenic acid, or chloride of zinc. None was discovered. I shall make an examination of larger portions of muscle and artery.

6. A piece of flesh, that appeared to have been acted upon by some powerful re-agent, was examined by me. It gave strong indications of an alkali. This alkali I found to be potash; it was applied, without any reasonable doubt, in a caustic state.

7. There were some small, round pieces of sheet-copper. They were said to have been found in the furnace, but they had not been acted upon by furnace heat.

MARTIN GAY.

Attest, JOHN L. ANDREWS.

Boston, December 8th, 1849.

In consequence of the decease of Dr. Gay, this deposition was inadmissible.

E.

THE JURY IN THE WEBSTER TRIAL.

To the Editors of the Traveller — Gentlemen: Having read, in several papers, what purported to be a relation of the scenes and events which transpired in the Jury-room, on the trial of John W. Webster, I have felt desirous (now that the subject has been brought before the public mind) that a plain statement of the more important matters connected with the Jury-room should be made, as it might prove interesting, if not instructive, to the community. The Jury was composed of twelve men, from as many different branches of the mechanical and mercantile "professions;" they were from four different religious denominations, and their ages varied from 28 to 66 years. They were men whom I should designate as possessing good sound common sense, — men capable of judging, of discerning, of appreciating evidence, and estimating its importance. The Jurors, after they had become better acquainted with each other, and as the evidence began to bear with

crushing weight upon the prisoner, and the "net-work of complicated circumstances" seemed to encircle him, felt strongly the need of "that wisdom which cometh from above," to guide and direct their minds aright, in their most momentous and responsible situation.

It was then that our worthy Foreman (whom we all must highly respect, and whom we shall ever remember with pleasure) proposed to the Jury that they should have religious services every evening. The proposition was most cheerfully responded to, and ever after that time, the voice of praise and prayer ascended, as we trust, from sincere hearts, to the throne of Infinite Wisdom and Mercy. I need not say that the burden of every prayer was for wisdom to guide and direct unto a right decision, and for blessings most rich and precious to descend upon the prisoner and his afflicted family.

I now come to the closing part of this momentous trial. When the witnesses for the defence had given in their testimony, and the Counsel for the prisoner announced the evidence on their part closed, a feeling of pain and anguish must have come over the mind of every Juror. "What! can no more be said, — no more be done in behalf of the unhappy prisoner? Is that the evidence — the *only evidence* on which we are to place our verdict of '*Not Guilty?*'"

At that very time, with the light which the able charge of the Chief Justice afterwards gave us on several points of "the law and the evidence," I think I speak the sentiments of nearly, if not quite, all the Jury, when I say, that they were as fully prepared for their verdict as they were when they retired to the Jury-room, after listening to the most able and eloquent pleas of the prisoner's senior Counsel and the Attorney General, so strongly, so fully, had the evidence pointed to the prisoner as the guilty man, AND TO NO ONE ELSE. After the Jury had gone to their room, — with the various evidences of guilt spread out on the table before them, and the door locked upon them, shut out, as it were, entirely from the world, with nothing but the eye of the Omniscient God upon them, — so painful was the sense of responsibility, so unwilling were they to come to the result which *all* felt they must come to, that thirty to forty minutes were spent ere anything was done; when at last the voice of the Foreman was heard calling them to order, and reminding them of duty, however painful. And, when they had all taken their seats around the table, then it was that one of the Jurors rose and said, "Mr. Foreman, before entering upon the further consideration and decision of this most important matter, I would propose that we seek for Divine wisdom and guidance." The proposition met with a cordial response, and the Foreman called upon a Juror to offer prayer. This was done, most feelingly and sincerely. We then proceeded to the most trying and painful part of our arduous duty. The various articles which were put into the case were examined by the Jury, and particularly those things which seemed to bear most strongly against the prisoner. The final decision of the question was resolved into three parts:

First. Are the remains of a human body, found in the Medical College, on the 30th Nov., 1849, those of the late Dr. George Parkman?

Second. Did Dr. George Parkman come to his death by the hands of Dr. John W. Webster, in the Medical College, on the 23d November, 1849?

Third. Is Dr. John W. Webster guilty, as set forth in the indictment, of the wilful murder of Dr. George Parkman?

When the vote on the first question was put, twelve hands arose immediately. Some little discussion then took place, when the second question was tested, and twelve hands at once arose The third — the most important question of all — was next to be tried. Quite a pause ensued. One Juror — in his sympathies of kindness for the prisoner (who was his personal acquaintance, or friend) and his afflicted family — shrunk from the "fiery ordeal." "Can't we stop here? — can't the law be vindicated, and justice satisfied, if we pause here? Must we take the *life* of the unhappy prisoner?" Some discussion ensued; the mind of the Juror seemed more calm, and he expressed his readiness to vote on the *final* question, which was then put, and twelve

hands arose. The die was cast, and John W. Webster was pronounced Guilty of Murder.

Thus ended the closing scene in the Jury-room. What afterwards transpired in the Court-room, is already known to the public. When our Foreman then pronounced that awful word — Guilty! the Jury, as well as the prisoner, trembled and grew faint. And what a relief it was to us, when we were again allowed to "go free," and rejoin our families and friends, after so long and painful a separation! and there was not a Juror's heart but would have leaped for joy could the prisoner have been justly allowed the same unspeakable blessing.

ONE OF THE JURY.

Boston, April 3d, 1850.

ERRATA.

Page 3, line 7, after "Samuel," insert *S.*

Page 17, line 23, for "$463,84," read $483,64.

Page 25, line 4 from bottom, for "two," read *one.*

Page 29, line 19 from bottom, for "never went on any other occasion," read *also went in December.*

Page 32, line 9, for "January," read *June.* Line 21, for "three," read *two;* for "two sons," *a son.*

Page 34, line 26, for "24," read 34. Line 23 from bottom, for "ten," read *twenty.* Line 12 from bottom, for "twenty-five," read *ten.*

Page 35, line 7, for "two," read *one.* Line 17 from bottom, for "George M." read *George F.*

Page 37, line 10, erase "where." Line 11, erase "resided."

Page 46, line 2, for "density," read *intensity.*

Page 48, line 12 from bottom, for "supplied," read *applied.*

Page 61, line 18, from bottom, for "B," read *E.*

Page 68, line 9 from bottom, for "room," read *privy.*

Page 73, line 26, after "must have been," insert *stated that it was.*

Page 80, transpose line 4 so as to follow the period in line 6.

Page 81, line 11 from bottom, for "23," read 25.

Page 91, line 1, for "September," read *December.* Line 17 from bottom, for "Foundery," read *Old Cemetery.*

Page 97, line 11 from bottom, for "store-room," read *cellar.*

Page 99, line 15, for "Putman," read *Butman.* Line 21 from bottom, for "bones," read *bone.*

Page 109, line 11, for "Prescott," read *Dexter.*

Page 110, line 22, for "head," read *face.*

Page 122, line 5, for "Darts," read *Dart.* Line 26, for "Boswell," read *Bosworth.*

Page 124, lines 15 and 16, for "his honors," read *its ashes.* Line 16, after "forgotten," insert *in kindness.* Line 17, for "to be an aversion to," read *in mercy by.* Line 22, for "way to," read *to the nature of.* Line 23, for "woman's," read *prisoner's.* Line 6 from bottom, for "upon," read *of.*

Page 126, line 4, for "passed," read *to pass.* Line 26, for "charge with," read *convict of.* Line 8 from bottom, after "sedate," insert *deliberate mind.*

Page 127, line 16, for "act," read *malice.*

Page 129, line 5 from bottom, for "Homicide," read *Manslaughter.*

Page 130, line 18, for "body," read *quarrel.* Line 15 from bottom, for "if," read *for.*

Page 131, line 14, for "in the time," read *by the means.*

Page 132, line 12, for "exposing," read *drowning.*

Page 136, line 9, for "of crimes, for," read *off crimes from.*

Page 137, line 25, for "we," read *they.*

Page 142, line 18 from bottom, for "seen," read *known to be.*

Page 150, line 4 from bottom, for "one," read *twelve.*

Page 155, line 18, for "last," read *first.* Line 19, after "pins," in place of — insert, *.There is partial.*

Page 156, line 12 from bottom, for "a clean cut," read *clean cuts.*

Page 159, line 3 from bottom, after "was in," insert *Court street, near.*

Page 160, line 17, for "J. H. Russell," *I. H. Russell.*

Page 168, line 12 from bottom, after "echo," insert *returned.*

Page 172, line 20, after "Mr. Cleland," insert *Mrs. Greenough.*

Page 173, line 28, after "They have," insert *not.*

Page 191, line 31, for "and therefore that he would," read *would therefore.* Line 33, for "—— he," read *and.* Line 36, after "by that," insert *from.*

Page 199, line 27, for "cause," read *object.*

Page 200, line 8 from bottom, for "thrown it away," read *used that twine;* after "and," insert *it could be proved that.*

Page 202, line 7, for "found out," read *obtained information.* Line 31, for "of Dr. Parkman were those," read *were those of Dr. Parkman.*

Page 205, line 4, for "state," read *speak.* Line 2 from bottom, for "in the morning, read *Friday Evening.*

Page 207, line 15, after "disposed," insert *of.*

Page 213, line 8 from bottom, for "from," read *after*

Page 233, line 13, after "testimony," insert *of.*